

CIVIL SOCIETY REPORT

CIVIL AND POLITICAL RIGHTS

The case of

ECUADOR

Human Rights Committee

142nd Session

LEAL

Association of Litigation and Strategic
Action for Human Rights in Latin
America)



NOFEC

Norwegian Forum for Democracy and
Rights in Ecuador



16 September 2024



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1 INTRODUCTION

1. Article 10 of the Constitution of the Republic of Ecuador establishes that all individuals, as well as communities, peoples, nationalities and collectives, are entitled to the rights recognised in the Constitution and in international human rights instruments. In line with this, Article 57 recognises and guarantees collective rights in accordance with the provisions of the Constitution, the Covenants, conventions, declarations and other international human rights instruments. These rights are of direct application, as provided for in articles 11.3, 417 and 426 of the Constitution, the interpretation of which has been endorsed by the Constitutional Court in its ruling No. 11-18-CN/19. In the exercise of its constitutional control function, the Court has guaranteed, through its decisions, the exercise of fundamental rights, such as the right to work, to health, to education, to housing, to cultural rights, to food sovereignty, to access to water, and to a healthy environment. It has also specially protected the rights of priority groups, gender rights, the rights of peoples and nationalities, and rights relating to personal freedom, legal protection, political participation, among others. All these rights are framed within the obligations derived from the International Covenant on Civil and Political Rights (hereinafter, the Covenant), which enjoys constitutional hierarchy and immediate applicability in the Ecuadorian legal system, in accordance with article 426 of the Magna Carta.¹

2. This citizens' report succinctly describes the systematic and recurrent violations of civil and political rights perpetrated by the Ecuadorian state in recent years. These violations affect the following fundamental rights:

- **Independence of judges and lawyers:** Lack of impartiality and autonomy in the exercise of the judicial function and the legal profession, which compromises the principle of separation of powers and the right to an impartial tribunal, in violation of article 14 of the Covenant.
- **Political persecution:** The misuse of the judicial system and state mechanisms to persecute and criminalise political opponents, violating the principles of democratic pluralism and non-discrimination, in violation of articles 18 and 19 of the Covenant.
- **Prohibition of torture:** Cases of cruel, inhuman or degrading treatment or punishment inflicted on detainees, in contravention of international standards enshrined in the International Covenant on Civil and Political Rights and the Convention against Torture, in violation of articles 6 and 7 of the Covenant.
- **Conditions of detention:** Violations of the rights of persons deprived of their liberty, including situations of overcrowding, lack of adequate medical care and inhuman treatment, violating the right to dignity and physical integrity, in violation of articles 9 and 10 of the Covenant.
- **Judicial independence:** Executive interference in judicial decisions, undermining the autonomy of the judiciary and the right to a fair trial, in violation of article 14 of the Covenant.

¹¹ Human Rights Committee, Seventh periodic report of Ecuador due in 2022 under article 40 of the Covenant under the optional reporting procedure, CCPR/C/ECU/7, 9 January 2023, §4.



- **Due process and fair trial:** Denial of minimum procedural guarantees, including the presumption of innocence, the right to be tried without undue delay, to receive a fair trial and access to an adequate defence, in violation of article 2 of the Covenant.
- **Right to privacy:** Arbitrary and abusive interference with privacy, home, correspondence and communications, in violation of article 17 of the International Covenant on Civil and Political Rights.
- **Freedom of thought and freedom of expression:** Undue restrictions on freedom of thought, conscience and religion, as well as censorship, persecution and criminalisation of freedom of expression and the media, in violation of articles 18 and 19 of the Covenant.

3. For more detailed information on the systematic and recurrent violations of the rule of law and fundamental rights and freedoms in Ecuador since 2022, we recommend consulting the reports produced by the civil society organisations that make up the Consortium for the Defence of Human Rights in Latin America (CODHAL). This consortium brings together various entities dedicated to the defence of human rights in the region, including NOFEC and LEAL, which have extensively documented cases of violations in the Ecuadorian context. The reports of these organisations offer an exhaustive analysis of the multiple facets of state repression, the judicialisation of politics and violations of civil and political rights, based on the constant monitoring of the human rights situation in the country².

2 STATE OF EXCEPTION, MILITARISATION OF CITIZENS' SECURITY AND EXCESSIVE USE OF FORCE (*art. 4 of the Covenant*)

4. Since the beginning of his mandate, the President of the Republic of Ecuador, Daniel Noboa, has recurrently resorted to the declaration of states of exception as the main tool to confront the public security crisis and the rise of organised crime. Beginning on 9 January 2024, Noboa first declared an internal armed conflict, citing the presence of 22 organised criminal groups, and since then has continued to expand and extend these emergency measures nationwide, including in the country's prisons.

5. The states of exception under Noboa's mandate have been applied mainly to militarise key areas of Ecuadorian territory, granting the Armed Forces broad powers to intervene in public security tasks and the control of places of deprivation of liberty. Despite constitutional provisions limiting the use of these measures, they have been renewed on several occasions, allowing the suspension of fundamental rights such as the inviolability of the home, freedom of association and the inviolability of correspondence.

6. Article 4 of the Covenant allows states, in exceptional situations, to derogate from certain rights; however, this derogation is conditional on the principles of legality, necessity and proportionality. In the Ecuadorian case, repeated declarations of emergency have raised concerns about their prolonged duration and extended application, especially with the involvement of the armed forces in the domestic sphere. The non-governmental organisation Human Rights Watch has denounced that the military forces, under the cover of these decrees, have engaged in extrajudicial executions, arbitrary detentions and torture, all under the pretext of security operations in the context of the armed conflict.

² CODHAL, Report on the situation of serious violations of the rule of law and fundamental rights and freedoms in Ecuador, 2022, [Spanish version online](#), [English version online](#) and attached; CODHAL, Summary of Repeated and Systematic Human Rights Violations in Ecuador, 2023, [Spanish version online](#), [English version online](#) and attached.



7. Noboa's responsibility for these abuses has come under scrutiny, as the emergency decrees he has signed have been questioned by both the Constitutional Court of Ecuador and international bodies. The Court has warned on several occasions that the indiscriminate use of this constitutional figure requires adequate justification, as its use without proper grounds could generate legal responsibilities for the violation of human rights. Noboa, however, has maintained the position that these measures are indispensable to combat organised crime and regain state control in areas where criminal organisations prevail.

8. It is crucial to underline that the prolonged states of emergency and militarisation of public security under Noboa have had serious implications for respect for human rights in the country. The persistent lack of accountability of the security forces, coupled with allegations of systematic abuses, places the Noboa government in a position of direct responsibility for the human rights violations resulting from these decrees. In this context, Ecuador's international obligations require a thorough review of the legality and legitimacy of the measures adopted, in order to ensure the protection of the fundamental rights of the population.

3 PENITENTIARY CRISIS: TORTURE, ARBITRARY DETENTION (AND CONDITIONS OF DETENTION) (arts. 6, 7, 9, 10, 14 of the Covenant)

9. Article 10.1 of the Covenant establishes the fundamental right of all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person. However, in recent years, the Ecuadorian State has faced a prison crisis that has escalated alarmingly, characterised by high levels of violence, structural overcrowding, and serious deficiencies in prison infrastructure. This situation has generated significant concern from the perspective of international human rights law, as it directly violates the Ecuadorian State's obligations under the Covenant, in particular articles 6 and 7, which guarantee the right to life and the prohibition of torture and cruel, inhuman or degrading treatment or punishment.

10. In the year 2023, the population deprived of liberty with a final sentence amounted to 26,134 persons. Of this group, a considerable number (7,347 persons) were sentenced for offences related to illicit substance trafficking, followed by theft offences (5,092 persons) and homicide or murder (3,898 persons). These figures reflect the prevalence of punitive policies aimed at criminalising non-violent offences, especially in relation to drug trafficking, which has aggravated prison overcrowding and violated the principle of proportionality in sentencing, recognised both in the Covenant and in international human rights law.

11. The reasons for the detention of a large part of the prison population reflect the high incidence of structural violence in Ecuadorian society. The absence of effective state control over prisons has created a power vacuum that has been occupied by criminal gangs. These criminal organisations have transformed prisons into centres of operation for the distribution and export of narcotics, resulting in a series of repeated massacres since 2021. The State's inability to guarantee security inside detention centres implies a direct violation of the fundamental rights of persons deprived of their liberty, specifically the rights to life and physical integrity.

12. Between 2021 and 2023, there were 14 massacres within the Ecuadorian prison system, resulting in the deaths of more than 500 inmates in at least five prisons in the country. Fifty-nine per cent of the victims were juveniles, underlining the gravity of the crisis and the responsibility of the State in its duty to protect the life and safety of persons in its custody, as provided for in article 6 of the Covenant. These tragedies constitute a flagrant violation of the right to life and expose the complicity or negligence of the State, either by direct action or by



omission in failing to guarantee minimum conditions of security. Moreover, the effects of these events transcend the prison walls, generating a climate of generalised insecurity among the population, particularly among the detainees' families, who live in constant fear for the safety of their loved ones.

13. Ecuador's penitentiary system presents a very worrying picture both in terms of the treatment of persons deprived of their liberty and the structural management of detention centres. One of the most serious problems lies in the absence of a solid institutional framework to formulate and implement effective public policies, as well as in the lack of regulatory reforms to ensure the proper functioning of prisons. This institutional deterioration has facilitated the proliferation of criminal practices within prisons, such as extortion, arms and drug trafficking, corruption of prison officials and the lack of staff trained in both security and conflict management.

14. Between 2018 and 2023, the situation has escalated dramatically, with more than 680 deaths recorded in violent incidents inside Ecuadorian prisons³. These events include riots, clashes between criminal groups and the absence of adequate state control, which has led to growing insecurity inside social rehabilitation centres.

15. One of the most serious episodes occurred on 23 February 2021, when a massacre took place simultaneously in three social rehabilitation centres in the country, resulting in the death of 79 people and dozens of wounded. This event highlighted the serious humanitarian crisis in the Ecuadorian prison system, with reports of death threats, lack of access to water and food for 48 consecutive hours, and a total collapse of the prison administration.

16. Despite the seriousness of these facts, the Ecuadorian State has not provided sufficient information or taken effective corrective measures in response to the recommendations of the Human Rights Committee. In its seventh periodic report under article 40 of the Covenant, the Committee highlighted the State's lack of response to this alarming situation⁴.

17. Indeed, the Committee had already underlined in 2021 that prison conditions in Ecuador contravene minimum human rights standards, and had requested the State to provide detailed information on measures taken to ensure security inside prisons and prevent future massacres. However, to date, the State has not complied with these international obligations⁵.

18. In 2023, interviews conducted by our team with relatives of persons deprived of their liberty who died during riots between 2020 and 2023 revealed significant delays in the identification of the bodies, as well as a lack of diligent, impartial and effective investigations into the circumstances of the deaths. These allegations also revealed the poor conditions of detention to which persons deprived of their liberty were subjected, raising serious concerns in relation to the fulfilment of the State's obligations under Article 6 of the Covenant, which guarantees the right to life.

³ Ecuador: UN torture prevention body still very concerned about prison crisis after second visit | OHCHR; Ecuador - Violence in prisons | OHCHR; Press briefing notes on Ecuador | OHCHR; Ecuador: UN Human Rights Chief concerned at spike in violence and backward step on Indigenous Peoples' rights | OHCHR; Ecuador has obligation to ensure security inside its prisons, say UN experts; AL ECU (5.2022) (ohchr.org); UA ECU (4.2023) (ohchr.org).

⁴ Human Rights Committee, Seventh periodic report of Ecuador due in 2022 under article 40 of the Covenant under the optional reporting procedure, CCPR/C/ECU/7, 9 January 2023, §69.

⁵ List of issues prior to the submission of the seventh periodic report of Ecuador, CCPR/C/ECU/QPR/7, 27 August 2021, §18.



19. In addition, recurrent acts of torture and ill-treatment inside detention centres were documented. Reported forms of torture included insults, punches, beatings with sticks and metal cables, as well as the use of pepper spray in closed cells, simulated drowning in water tanks and threats of violence. These acts constitute serious violations of Article 7 of the Covenant, which prohibits torture and cruel, inhuman or degrading treatment. No effective internal mechanism has been implemented to guarantee reparation and non-repetition of these acts, which perpetuates a situation of constant stress and psychological torture for persons deprived of their liberty, violating their fundamental rights.

20. On 13 January 2024, the Armed Forces were mobilised to maintain security inside prisons as an extraordinary measure in response to the crisis. However, this measure was adopted without a comprehensive plan to address the structural and systemic causes of the prison crisis, such as overcrowding, corruption and lack of trained personnel. The intervention of the Armed Forces has not only proved ineffective in resolving the crisis, but has also been noted by the UN Committee against Torture as a practice that has led to human rights violations, including acts of torture, in contravention of Ecuador's international obligations under article 7 of the Covenant and the Convention against Torture. In its concluding observations issued on 28 July 2024, the Committee expressed its concern about the excesses committed by the military forces in public security and penitentiary tasks⁶.

21. On the other hand, the persistence of prolonged incommunicado detention, as well as the deficiencies observed in the access of persons deprived of their liberty to an independent medical examination at the time of their admission to detention centres, are of great concern. These practices violate the standards established by international human rights law, particularly article 9 of the International Covenant on Civil and Political Rights, which protects against arbitrary detention, and article 7 of the same instrument, which guarantees the right not to be subjected to torture or cruel, inhuman or degrading treatment.

22. In this regard, the Committee against Torture, in its concluding observations of 28 July 2024, issued urgent recommendations to the Ecuadorian State to adopt effective measures to prevent arbitrary detention and incommunicado detention. Among the key recommendations is the State's obligation to ensure that all detainees enjoy, from the outset of their deprivation of liberty, the fundamental safeguards set out in international human rights standards. These include, but are not limited to, immediate access to legal counsel without delay, as well as the right to be represented by a lawyer of their choice and to receive free quality legal assistance in case of need.

23. In addition, the Committee urged the State to ensure that detainees have access to a free and confidential medical examination by an independent medical practitioner or, if they so request, by a doctor of their choice, in compliance with the obligations under article 11 of the Convention against Torture. The implementation of these recommendations is essential to prevent human rights violations and to ensure that detention conditions are in line with international standards⁷.

24. The lack of response by the Director of the Guayas Male Social Rehabilitation Centre No. 3 "La Roca" to repeated and documented requests to allow the entry of an internist to monitor the critical state of health of several inmates in the centre has been noted. These requests are duly grounded in the urgent need to carry out a thorough medical assessment, as the absence of adequate care has exacerbated the deteriorating health conditions of the

⁶ Committee against Torture, Concluding observations on the eighth periodic report of Ecuador, 28 July 2024, §11.

⁷ Committee against Torture, Concluding observations on the eighth periodic report of Ecuador, 28 July 2024, §14.



detainees, many of whom suffer from multiple chronic illnesses. In some cases, the use of excessive polypharmacy has been identified, while in others there is a complete lack of adequate medication, which further aggravates the clinical situation of the detainees.

25. In addition, in the last year a serious food crisis has been reported within Ecuadorian prisons, where inmates receive only one ration of food per day, which does not meet minimum nutritional standards. This situation has led to documented cases of severe malnutrition, with deaths and emergency transfers for causes directly related to poor nutritional status.

26. In accordance with the principles set out in article 10 of the International Covenant on Civil and Political Rights, persons deprived of their liberty have the right to be treated with dignity and to receive adequate food. In addition, article 12 of the International Covenant on Economic, Social and Cultural Rights obliges States parties to guarantee the right to the highest attainable standard of physical and mental health, which includes the obligation to provide medical care and adequate nutrition to all persons in state custody.

27. The failure of the prison authorities to provide timely and adequate access to medical care and nutrition not only constitutes a violation of the right to health and the right to life under Articles 6 and 7 of the Covenant, but also violates the Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules), which stipulate that States have an obligation to provide medical care in conditions equivalent to those offered to the general population. The repeated refusal to respond to medical requests and to guarantee basic food constitutes a serious violation of the international obligations of the Ecuadorian State, which must ensure that persons deprived of their liberty enjoy the same fundamental rights as the rest of the population, except for the right to liberty.

28. With overcrowding in more than half of the country's prisons and excessive use of pre-trial detention (more than 40% of the prison population), prison conditions are deplorable. "La Roca" is off-limits to journalists, but Human Rights Watch reports that observers have reported "restrictions on the provision of food, medicine and other basic services, beatings, tear gas, electric shocks, sexual violence, and deaths at the hands of soldiers"⁸. Overcrowding is caused by punitive anti-drug policies, delays in granting prison benefits and excessive use of pre-trial detention. Prison guards are inadequately trained and insufficient to contain violence. Also noted are the distribution of inmates according to their alleged membership of criminal groups rather than by sentence categories, the lack of communication between lawyers and their clients, and in some cases the lack of privacy during meetings in the presence of armed forces, the presence of military personnel during confessions with a priest, poor facilities and a hostile environment.

29. In a report by the Ecuadorian Ombudsman's Office, it is noted that, in the cells of "La Roca", fleas were found inside the cell and in the corridors there are rats that have left excrement and urine on the bed where he rests, suggesting that the fleas come from these rodents. This is an extremely important risk as these rodents are carriers of multiple diseases such as leptospirosis, hantavirus, which is a highly lethal pulmonary syndrome, as well as the transmission of diseases through flea bites such as bubonic plague, murine typhus, among others. The cells have problems with humidity and water seepage, which increases the risk of respiratory diseases. Ventilation is insufficient and the fans installed do not improve the environment. Electricity is only supplied from 18h to 22h and the cells are dark during the

⁸ Human Rights Watch, Letter to President Noboa on "Internal Armed Conflict" and Human Rights Violations in Ecuador, 22 May 2024, <https://www.hrw.org/es/news/2024/05/22/carta-al-presidente-noboa-sobre-conflicto-armado-interno-y-violaciones-de-derechos>.



day, they do not receive any natural light⁹. In all prisons in the country, family and intimate visits are suspended; despite the end of the state of emergency, there has been no provision by the authorities of the National Service of Integral Attention to Adults Deprived of Liberty and Adolescent Offenders (SNAI) to resume visiting hours¹⁰.

30. Finally, in 2021, the Human Rights Committee asked the Ecuadorian state to provide "information on measures taken to prevent, investigate and punish human rights abuses and violations committed by law enforcement officials, especially torture and ill-treatment"¹¹. In response to the Committee's request, the Ecuadorian State merely replied that training and a workshop had been held. The Ecuadorian state's inaction in the face of allegations requiring investigation and reparation raises serious questions about its commitment to the principles of justice and respect for international human rights law. Failure to comply with international obligations to investigate allegations of torture and ill-treatment not only compromises the integrity of the judicial system, but also undermines confidence in state institutions charged with protecting the rights of all citizens. It is imperative that thorough and transparent investigations into these allegations are conducted to ensure that fundamental human rights are respected and to bring to justice those responsible for any acts of torture or ill-treatment.

31. These inhumane and unacceptable conditions have led persons deprived of their liberty to attempt suicide. However, faced with these situations, and according to the "Operational Guidelines for the Care of Persons with Suicidal Intent and/or Attempts in Establishments of the Ministry of Public Health of Ecuador of 2021"¹², "once the patient is physically stabilised, the psychologist or psychiatrist must carry out the mandatory mental health evaluation". Security measures such as the presence of a family member 24 hours a day or, if this is not possible, a nurse every 15 to 30 minutes should also be implemented. These measures are not taken, and worse, patients were kept isolated from family contact and deprived of mental health care, further endangering their emotional stability and their lives.

32. Similarly, instead of taking measures to prevent abusive detentions, the government has publicly backed the security forces and the country's president has called a judge who found human rights violations in prisons "unpatriotic"¹³.

33. We suggest that the state end military control over prisons and commit to a reform of the penitentiary system that addresses long-standing problems such as overcrowding, delays in processing prison benefits, limited access to basic services, lack of a serious social rehabilitation programme and the small number and inadequate training of prison guards, among others.

34. We suggest that the state end incommunicado detention and ensure that detainees are able to communicate with and receive visits from family members and lawyers and are guaranteed access to health care and other basic services.

⁹ Ombudsman's Office, Visit to "La Roca", 22 April 2024.

¹⁰ Ibid.

¹¹ List of issues prior to the submission of the seventh periodic report of Ecuador, CCPR/C/ECU/QPR/7, 27 August 2021, §15.

¹² Ministry of Public Health, Ecuador, 2021, <https://www.salud.gob.ec/wp-content/uploads/2021/09/Lineamiento-de-intencion-e-intentos-de-suicidio.pdf>.

¹³ Ecuavista, Noboa in support of the military: 'Let no anti-patriot come to us and say that we are violating anyone's rights.' In spanish, 15 February 2024, <https://www.ecuavista.com/noticias/politica/noboa-declaraciones-derechos-humanos-manabi-DN6816014>.



4 INDEPENDENCE OF JUSTICE, DUE PROCESS AND FAIR TRIAL (*arts. 2 and 14 of the Covenant*)

35. Deinstitutionalisation in Ecuador has had a negative impact on the independence of democratic institutions and the separation of powers, fundamental pillars of the rule of law. Since 2018, reforms that weakened institutional structures, especially in the judiciary, have raised concerns about compliance with the International Covenant on Civil and Political Rights (the Covenant).

36. In 2018, the referendum promoted by President Lenin Moreno restructured the Council for Citizen Participation and Social Control (CCPSC), which is responsible for appointing key authorities, such as the Attorney General and judges of the National Court of Justice, and 137 other control authorities. The lack of a prior ruling by the Constitutional Court on this popular consultation violated constitutional procedures, contravening article 14 of the Covenant, which guarantees the right to an independent and impartial tribunal. The appeal of the UN Special Rapporteur on the independence of judges and lawyers of 24 January 2018 (OL ECU 1/2018) already warned about the impairment of judicial independence due to Executive Decrees 229 and 330, which would have allowed the Executive to directly influence the appointment of judicial authorities without prior opinion of the Constitutional Court.

37. The termination of the CCPSC and its replacement by a transitional CCPSC, the dismissal of judges, the Attorney General and other senior officials without due process and without the right to defence violated Article 14 of the Covenant, which establishes the right to a fair trial. These actions compromised judicial independence by placing key institutions under executive control.

38. The UN Special Rapporteur on the independence of judges and lawyers has issued other urgent appeals to the Ecuadorian government on violations of judicial independence. The 18 September 2019 appeal (AL ECU 14/2019) expressed deep concern about the evaluation process of judges and co-judges of the National Court of Justice. According to this report, the comprehensive evaluation and removal of judges may have violated international standards on judicial independence, noting that it could affect judicial irremovability and involve undue interference in the judicial process.

39. In the appeal of 10 June 2020 (AL ECU 1/2020), the Rapporteur reiterated his concern about the consequences of the dismissal of judges of the National Court of Justice and magistrates, warning of instability in the performance of their duties and the risk of undermining judicial impartiality, which is incompatible with the international standards of the Covenant.

40. The politicisation of the judicial system has been an alarming consequence. The manipulation of the judiciary to persecute political opponents has violated the principles of impartiality and judicial independence set out in article 14 of the Covenant. The lack of adequate mechanisms to protect the autonomy of judges, subject to pressure from the executive and other political powers, has undermined these principles.

41. Institutional weakening, initiated with the popular consultation without constitutional control and the intervention of the executive in judicial functions, has compromised the rule of law. The politicisation of appointments and dismissals has allowed for the persecution of



political opponents and a lack of transparency, contravening the right to free and fair political participation¹⁴.

42. The appointment of Diana Salazar as State Prosecutor General in April 2019 by the Transitional Council for Citizen Participation and Social Control (CCPSC-T) has been widely criticised due to irregularities that occurred during the process. These concerns focus on the lack of transparency and meritocracy, fundamental principles enshrined in Ecuadorian law and in international human rights obligations that Ecuador has assumed, such as the International Covenant on Civil and Political Rights.

43. The process leading to Salazar's appointment has been widely criticised for failing to comply with the principles of impartiality and merit, as required by article 233 of the Ecuadorian constitution, which states that public authorities must be selected on the basis of objective, transparent and meritocratic criteria. In the case of Salazar, independent reports, including documents provided in this analysis, suggest that his appointment was influenced by political connections rather than based on criteria of legal capacity and competence. This is reflected in the low scores he obtained in academic and legal assessments compared to other candidates.

44. Furthermore, according to article 14 of the International Covenant on Civil and Political Rights, judicial authorities should be selected impartially and on the basis of merit, ensuring that judicial processes are fair and respect the fundamental rights of citizens. The shortcomings in the selection process of the Attorney General violate these international principles, affecting the perception of judicial independence in the country.

45. According to reports such as the Academic Transparency Report¹⁵, the academic papers submitted by Salazar, which were evaluated during his selection process, showed serious deficiencies in terms of originality and academic rigour. This report, which was commissioned by human rights organisations, concluded that several of his papers contained elements of plagiarism or misappropriation of ideas without proper reference, which contravenes standards of academic integrity and affects the perception of his suitability for the position.

46. The lack of transparency and academic weaknesses in Salazar's selection process call into question compliance with the right to participate in public affairs under conditions of equality and merit. The public perception that the process was tainted by political influence has eroded confidence in the state attorney general's office, a key institution in the administration of justice.

47. The appointment of Diana Salazar under these circumstances seriously affects the independence and impartiality of the Ecuadorian judicial system, fundamental principles enshrined in Article 14 of the Covenant. This article guarantees the right to be tried by independent and impartial courts, and the Attorney General's Office plays a crucial role in guaranteeing these rights. The perception of political influence in the Attorney General's Office compromises public confidence in the administration of justice, undermining due process and the rule of law.

¹⁴ NGO LEAL, Denouncing political persecution of the Council for Citizen Participation and Social Control in Ecuador, to the Special Rapporteur on the independence of judges and lawyers, 06 January 2023 (annex in Spanish).

¹⁵ International Ombudsman Academic Transparency, 20 August 2023, https://raw.githubusercontent.com/huayra/nofec.no/master/static/images/INFORME_Transp_Academ_firmado.pdf, in Spanish.



48. The concept of lawfare, or the instrumentalisation of justice for political purposes, has been widely discussed in Ecuador, especially in the context of the actions of the Attorney General's Office under Diana Salazar. "Lawfare refers to the use of judicial processes as tools to persecute and delegitimise political opponents, rather than on the basis of a fair and impartial process. This phenomenon has been perceived in several investigations led by the Attorney General's Office in recent years, particularly in cases involving government opponents.

49. Since her appointment in 2019, Diana Salazar has been embroiled in a series of controversies that have raised serious doubts about the independence of the Attorney General's Office, due to actions that have directly linked her to political interference. One of the most serious accusations it faces is the misuse of sensitive information during the initial stages of judicial investigations, violating the principle of presumption of innocence. This practice has resulted in the publication of sensitive details, which are exploited by the media to carry out a "media lynching" of those involved, affecting not only the reputation of the accused, but also their right to a fair trial.

50. A report by The Intercept published in August 2024 directly linked Diana Salazar to US government agencies, in particular State Department and DEA officials¹⁶. The investigation suggests that Ecuador's Attorney General's Office, under Salazar's leadership, collaborated closely with US entities on matters related to key political figures of the Citizen Revolution. This collaboration included handing over confidential information on ongoing judicial cases, with the apparent aim of influencing the outcome of the 2023 presidential elections.

51. The report notes that Salazar allegedly shared specific details of judicial investigations with the aim of generating a "media lynching" of political opponents ahead of the elections. Among the cases mentioned is that of Jorge Glas, who was the subject of several investigations and convictions that, according to The Intercept, were manipulated to ensure that candidates aligned with Correism would not regain power. In addition, it is alleged that the Attorney General's Office provided key information to the media, feeding a narrative that undermined left-wing candidates and favoured political alliances close to US interests in Ecuador.

52. According to the investigation, this collaboration between the Ecuadorian Attorney General's Office and the United States was part of a broader strategy to ensure that the country maintained policies aligned with US interests, especially in relation to security and counter-narcotics. The DEA's intervention in several high-profile cases in Ecuador, including those related to organised crime, was seen as a way to reinforce Ecuador's dependence on US security assistance, thus weakening the country's judicial sovereignty. The premature disclosure of confidential information and its manipulation at the judicial level was a centrepiece of this foreign intervention strategy, exacerbating concerns about the politicisation of the judicial system.

53. The Intercept's investigation also notes that this intervention not only compromised judicial independence, but also led to a systematic violation of the human rights of the accused, who did not have access to a fair judicial process. The principles of article 14 of the Covenant, which guarantee the right to a fair and impartial trial, were severely eroded by these practices, as judicial decisions appeared to be guided more by political and geopolitical interests than by the pursuit of justice. This pattern of cooperation with external actors, specifically the United

¹⁶ Intercept Brazil, José Olivares and Ryan Grim, 'They Killed a US Informant' Ecuadorian Attorney General, Linked to the United States, Is Behind the Attack on the Left, 29 August 2024, <https://www.intercept.com.br/2024/08/29/fiscal-general-ecuador-vinculada-a-los-estados-unidos/>.



States, has been denounced by human rights organisations and by the Revolución Ciudadana itself, which maintains that it was a clear instrumentalisation of justice for political ends.

54. The UN Special Rapporteur on the independence of judges and lawyers issued an urgent appeal on 26 January 2022 (AL ECU 1/2022), in which he expressed his deep concern about the political use of judicial proceedings in Ecuador. The Rapporteur highlighted that the investigations and judicial proceedings in the case known as "Bribes" were manipulated to delegitimise certain political figures and opponents of the government, violating the principles of judicial independence and disclosing confidential information prematurely in order to damage the reputation of the accused.

55. Article 14 of the Covenant guarantees the right to a fair and impartial trial before independent courts. However, the political use of the judicial system in Ecuador, under Salazar's leadership, undermines these fundamental principles. The perception that the prosecutor's office responds to political interests, rather than justice, undermines public confidence in judicial institutions and compromises the right to due process.

56. In sum, the actions of the Prosecutor's Office under Diana Salazar have been perceived as part of a lawfare strategy, seriously affecting judicial independence and the right to a fair trial, essential principles under the Covenant.

5 FREEDOM OF THOUGHT, FREEDOM OF EXPRESSION, POLITICAL RIGHTS AND POLITICAL PERSECUTION (*arts. 18, 19 of the Covenant*)

57. The exercise of freedom of expression and political rights in Ecuador has come under increasing pressure in a context of violence and political instability. Journalists and the media have been particularly affected, facing attacks, death threats, and judicial pressure, resulting in the forced departure of several journalists from the country, as well as an environment of self-censorship.

58. Reporters Without Borders and others have documented a significant increase in attacks against journalists. These include the use of judicial mechanisms to intimidate and discredit journalists critical of the government, in addition to death threats and direct physical attacks. More than a dozen journalists were forced to flee the country between January 2023 to date, in part due to a lack of state protection and threats they received after investigating and exposing corruption and organised crime.

59. One of the most prominent cases in the context of the persecution of journalists in Ecuador is that of Andersson Boscán, co-founder of the digital media La Posta. Boscán and his wife, Mónica Velázquez, reported a series of death threats and harassment following the publication of critical reports on corruption in the Ecuadorian government and the connections of organised crime with high-level political figures¹⁷. These threats led the couple to leave Ecuador and seek asylum in Canada in September 2024.

60. The hostile environment they faced included constant surveillance, including drones flying over their residence, according to Boscán's allegations. In addition, he directly accused the National Police Intelligence Directorate of conducting surveillance against his family, increasing the risk to his personal safety. In his statements, Boscán also mentioned that the journalistic environment in Ecuador is threatening not only because of organised crime, but

¹⁷ Periodista en llamas, Source Café La Posta, Andersson Boscán: This is how you (DIANA SALAZAR) spoke of Villavicencio, as a mafioso, 23 August 2024, <https://www.youtube.com/watch?v=WiV-Xt7MdUg&t=421s> (in Spanish).



also because of a state that, instead of protecting press freedom, has become a persecutory actor, reflecting a pattern of repression of critical journalists.

61. Boscán's case illustrates a broader pattern of use of the judicial system under the direction of Attorney General Diana Salazar. Boscán has been the subject of criminal investigations by the Attorney General's Office, in what he and other critics perceive as an attempt to silence his journalistic work. This case highlights how the judicial system has been instrumentalised to repress freedom of expression and target journalists who expose government irregularities and connections to organised crime.

62. The case of Alondra Santiago, a Cuban journalist based in Ecuador, is another example of the deterioration of civil liberties in the country. Santiago was expelled from Ecuador after her visa was revoked in June 2024, accused of acts that "undermined state security"¹⁸. Santiago had been critical of Daniel Noboa's government and her expulsion was seen as an attempt to silence a critical voice in the media. This act was widely denounced as a violation of the fundamental rights to freedom of expression and the exercise of political rights.

63. In addition to direct attacks on journalists, state control over the media and manipulation of information have worsened the situation. The takeover of the state channel TC Televisión and the escape from prison of José Adolfo "Fito" Macías, leader of the criminal group Los Choneros, exposed the lack of state control over organised crime and its relationship with certain political spheres. The targeting of critical media and journalists has seriously weakened the right to freedom of expression, protected by Article 19 of the Covenant.

64. These cases of attacks and persecution against journalists are a clear manifestation of the instrumentalisation of justice and the use of the state apparatus to repress dissent. The fundamental rights of freedom of thought and expression, enshrined in articles 18 and 19 of the Covenant, have been severely restricted under the pretext of protecting national security, when in reality the aim is to protect the interests of the state and persecute critical voices.

65. The situation in Ecuador has generated a crisis in freedom of expression and political rights, which endangers not only the independence of the media, but also access to truthful and objective information, fundamental to the functioning of a democratic society.

66. The arrest of Ecuador's former vice-president Jorge Glas at the Mexican embassy in Quito on 5 April 2024 represents arbitrary detention, prohibited by article 9 of the Covenant. This article guarantees that no one shall be arbitrarily detained and that any deprivation of liberty must comply with clear legal procedures. In the case of Glas, the forced entry of Ecuadorian security forces into the embassy, a space protected by the Vienna Convention, was carried out without respect for the norms of due process, violating his right to personal security. This is compounded by the fact that Jorge Glas was under diplomatic protection, which adds an additional layer of illegality to the act of his detention.

67. Moreover, the detention of Glas under these conditions also violates article 14 of the Covenant, which guarantees the right to a fair trial and equality before the courts. The prosecution of Glas, carried out through judicial processes that have already been widely questioned for their lack of independence, reinforces the perception that this case is an example of lawfare, where the judicial system has been instrumentalised for political purposes. The way his detention was carried out without following proper procedures also

¹⁸ DW Ecuador, Government of Ecuador revokes Alondra Santiago's visa, 26 June 2024, <https://www.dw.com/es/gobierno-de-ecuador-revoca-la-visa-de-alondra-santiago/a-69475613>.



violates his right to adequate judicial protection, aggravating the situation of political persecution against him.

68. The raid on the Mexican embassy also violated the Vienna Convention on Diplomatic Relations, which establishes the inviolability of diplomatic premises. The Ecuadorian forces not only violated this rule, but also forced entry and carried out a kidnapping, which has caused a serious deterioration in diplomatic relations between Ecuador and Mexico. The 1954 Caracas Convention on Diplomatic Asylum, ratified by both countries, also protects political asylum seekers from such acts, adding another level of violation of international law in this case.

69. The case of Jorge Glas is a clear example of political persecution that has led to serious violations of human rights and international law. The consequences of this kidnapping are of great magnitude, affecting not only his individual rights, but also the respect for diplomatic norms and international treaties that Ecuador is obliged to comply with.

6 CONCLUSIONS

70. **Systemic Violations:** The Ecuadorian state has engaged in recurrent and serious violations of civil and political rights, affecting a wide range of rights, from judicial independence and due process to excessive use of force and torture in prisons.

71. **Militarisation and Excesses:** The militarisation of public security, under repeated states of emergency, has led to serious abuses by the armed forces, including extrajudicial executions, arbitrary detentions and the misuse of force against the population.

72. **Political Persecution and Diplomatic Kidnapping:** The judicial system is being misused to persecute opposition figures, creating a climate of political persecution in Ecuador that violates the principles of democracy and non-discrimination. The kidnapping of Jorge Glas in the Mexican embassy, in flagrant violation of international law and the right to asylum, aggravates this persecution and demonstrates a pattern of political instrumentalisation of the judicial system.

73. **Prison Conditions:** Conditions in Ecuadorian prisons are inhumane, with extreme overcrowding, lack of medical care and violence. These conditions have resulted in recurrent massacres and violations of detainees' rights, including torture and degrading treatment.

74. **Attacks on Freedom of Expression:** Journalists, human rights defenders and political dissidents have been subject to attacks, threats and persecution. The case of Andersson Boscán and other journalists who have had to go into exile demonstrates the serious crisis of freedom of expression in the country.

75. **Impunity:** Despite multiple allegations of human rights violations, investigations have been insufficient, and the state has failed to take adequate corrective measures, perpetuating impunity in Ecuador.

7 REQUEST

76. **Militarisation and Excesses:** Call on the Ecuadorian state to take responsibility for the excesses committed during the militarisation of public security, punish the guilty and compensate the victims, re-establishing civilian control over the forces of law and order and guaranteeing the protection of human rights in all security operations.



77. Reform of the Penitentiary System: Demand that the State immediately implement a penitentiary reform that addresses overcrowding, lack of basic services and violence in detention centres, guaranteeing dignified conditions for persons deprived of their liberty.

78. Protection of Judicial Independence: Urge the international community to monitor and support measures to restore judicial independence in Ecuador, guaranteeing fair judicial processes free from political interference.

79. Investigation into the kidnapping of Jorge Glas: Request an independent international investigation into the kidnapping of Jorge Glas inside the Mexican embassy, to establish responsibility for this violation of international law and diplomatic treaties. In addition, demand that the Ecuadorian State respect the norms of the right to asylum and the immediate restitution of the rights violated to Jorge Glas.

80. Guarantee of Freedom of Expression: Call on the Ecuadorian State to guarantee the protection of journalists, human rights defenders and political activists, and to cease the use of judicial mechanisms for the repression of dissent and censorship.


81. Independent Investigations: Require independent and impartial investigations into abuses committed by security forces and the prison administration, in order to ensure accountability and non-repetition.

82. Compliance with International Obligations: Demand that the Ecuadorian State comply with its international obligations under the International Covenant on Civil and Political Rights, implementing all recommendations issued by the Human Rights Committee and other international bodies.

Non-governmental organisations LEAL and NOFEC

CODHAL members





Report on the situation of serious violations of the rule of law and of fundamental rights and freedoms in Ecuador

Presented by:

Colectivo Europeo de la Diversidad Ecuatoriana (C.E.D.E)

Gesellschaft für Menschen Rechte Amnestie und Chancengleichheit
Internationale Aktionen (G.R.A.C.I.A)

Norwegian Forum for Democracy and Rights in Ecuador (N.O.F.E.C)

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Associazione Amici dell'Ecuador (A.D.E)

I. Introduction

Ecuador is going through a deep social, economic, political, democratic and security crisis. The rule of law and the fundamental rights and freedoms of Ecuadorians are no longer guaranteed. The rule of law presupposes respect for the separation and balance of the different powers of the State, which alone makes it possible to protect and guarantee respect for human rights.

Since 2018, in Ecuador, the judicial system has been profoundly reshaped, ruining the guarantees of independence and impartiality of justice. Members of the Judiciary Council, magistrates of the Constitutional Court, 70% of the members of the National Court of Justice, the Attorney General and others have been arbitrarily removed from their positions, without having committed any fault and without respect for their rights of defence. Since then, the power of attorney has turned into service of the government getting to the point of criminalize political opponents. In addition, the media actively participate in strategies to create the figure of the "enemy opponent" propagating an official message without retrospective or evidence. The concern for the institutional future of Ecuador is greater because the current President of the country is planning demagogically to call for a new referendum, which in reality intends to politicize the law enforcement offices.

The legal and media powers attack to political opponents, known as "lawfare" has been used mainly against the leaders and supporters of the Revolución Ciudadana (RC) movement. They have been subjected to several trials in clear violation of the law and their human rights. Without fair trials and with degrading and unhuman treatments.

International control agencies, such as the Interpol File Control Commission, the United Nations Special Rapporteur on the Independence of Judges and Lawyers, the Inter-American Commission on Human Rights, the United Nations Working Group on Arbitrary Detention and the Belgian Commissariat General for Refugees and Stateless Persons and others all come to the same conclusion that lawfare has been used repeatedly to criminalize, discredit and delegitimize not only political opponents but also leaders of social and indigenous movements who protest asking for the implementation of policies that respect their social, economic and cultural rights. Among the victims of the assault on human rights are also Julian ASSANGE, psychologically tortured in the Ecuadorian embassy since the arrival to the presidency of L. MORENO, then arbitrarily deprived of his refugee status, and Ola BINI, arbitrarily arrested and imprisoned, victim of an unfair trial, for his links with the founder of WikiLeaks.

Democracy requires the possibility of a representative expression of different political thoughts of the population. After the breakup within the Alianza País party in 2018, and following the sudden political turn of R. CORREA DELGADO's successor, supporters of the "Revolución Ciudadana" were systematically prevented from creating a new party or political alliance that would allow them to participate, on equal terms, in the 2019 regional and 2021 national elections. As in Brazil, lawfare has undermined the right of fair and democratic elections.

Since 2017, poverty and violence have increased alarmingly. Economic, social and security difficulties have led to widespread protests in 2019 and 2022. The same ones that were violently repressed leaving a result of several dead and hundreds injured. In response to popular discontent, the freedoms of expression and demonstration have been violated through the abuse of states of emergency and the excessive use of force. This disproportionate use of public forces has been condemned internationally. The Ecuadorian government has also used these mass demonstrations as a excuse to criminalize its "opponents". Democratic dialogue is generally denied and disqualified.

In 2019, the prison administration underwent structural and budgetary reform. The overuse of incarceration and the lack of investment have led to significant overcrowding in conditions that do not allow for the classification of prisoners, and the number of prison guides in prison facilities has been depleted. The State can no longer guarantee the right to life and respect for the physical integrity of prisoners in Ecuador. Since December 2020, despite the state of emergency declared in September 2021, more than 400 prisoners have lost their lives in violent clashes. These are massacres with some victims having been dismembered and/or decapitated. It has not been decided what structural measures could be taken, nor significant investments in this field.

The crisis in Ecuador reveals a management that seriously undermines the fundamental rights and freedoms of Ecuadorians (right to live in dignity, right of health, right of freedom of expression and demonstration, right of life, right to be respected for any physical integrity, right of a fair trial, right of freedom to exercise political rights or preferences).

The breakdown of the rule of law is a matter of deep concern, as it is a necessary condition for the development of people's fundamental rights and freedoms.

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II. Breakdown of the rule of law - establishment of a judiciary under the tutelage of the executive, lacking independence and impartiality.

A. Process of "dismantling" of the judiciary

1. Referéndum 2018

1. Among the constitutional powers of the President of the Republic is the power to "call a referendum in the cases and with the requirements set forth in the Constitution"¹.

On October the 2nd in 2017, the President of the country requested that the Constitutional Court issue a prior and binding opinion regarding the constitutionality of the referendum back then, and the questionnaire relating to five questions suggesting to the following topics: fight against corruption, indefinite re-election, citizen participation and institutional, social and environmental issues².

Question 3 of the referendum specifically stated:

"Do you agree with amending the Constitution of the Republic of Ecuador to restructure the Council of Citizen Participation and Social Control (CPCCS) as well as to terminate the constitutional term of its current members, and that the Council that temporarily assumes their functions has the power to evaluate the performance of the authorities whose appointment corresponds to it, being able, if necessary, to anticipate the termination of their terms, according to Annex 3?"³

Annex 3 had the following content:

"Early termination of term: The constitutional terms of the principal and alternate members of the Council of Citizen Participation and Social Control are hereby terminated, who shall cease in their functions on the day on which the Council of Citizen Participation and Social Control is installed, which shall carry out the transition in accordance with this annex.

[Transitional regime of the Council for Citizen Participation and Social Control: The terms of office of the councilors of the current Council for Citizen Participation and Social Control are terminated in advance. Until the installation of the new Council of Citizen Participation and Social Control in accordance with the system established in the amended Constitution, a Council of Citizen Participation and Social Control is

¹ Constitution of the Republic of Ecuador, Art. 147 numeral 14.

² Office of the President of the Republic, Oficio No. T.141-SGJ-17-0331 of October 2, 2017.

³ Presidency of the Republic, Oficio No. T.141-SGJ-17-0331 of October 2, 2017.

established which will temporarily assume all the powers, duties and attributions that the Constitution and the laws grant to the Council of Citizen Participation and Social Control and will be comprised of seven members appointed by the National Assembly from among shortlists sent by the President of the Republic. (...) The transitional Council shall have the mission of strengthening the mechanisms of transparency and control, citizen participation, and prevention and fight against corruption for which it shall propose the necessary reforms to the competent bodies. The Transitional Council shall evaluate the performance of the authorities appointed by the terminated Council of Citizen Participation and Social Control, within a maximum term of six months from its installation, being able, if necessary, to declare the early termination of their terms, and if it does so, it shall immediately proceed to convene the respective selection processes. To this effect, it shall issue a regulation that regulates the evaluation process, guaranteeing due process, with a hearing for the evaluated authorities and including the necessary mechanisms for contestation and citizen participation. Likewise, it shall guarantee the improvement, objectivity, impartiality and transparency of the selection mechanisms of the authorities whose appointment is within its competence [...]"⁴ .

Without waiting for the binding ruling of the Constitutional Court, former Ecuadorian President L. MORENO called on voters to go to the polls on February 4, 2018. 2018.

2. The Council of Citizen Participation and Social Control (CPCCS) is a constitutionally established body, whose members are elected by popular vote, which oversees multiple institutions (Attorney General's Office, Prosecutor General's Office, Judiciary Council, etc.). popular vote, which oversees multiple institutions (Attorney General's Office, Prosecutor General's Office, Judiciary Council, etc.).

Their dismissal outside the time and conditions set by law and their replacement by members chosen by the political power clearly endangered the structure of the State and the independence of the judiciary.

The Organization of American States (hereinafter OAS) invited the Ecuadorian State to wait for the result of the constitutionality review, but the government objected. The OAS then issued a critical preliminary report highlighting the illegality of the lack of prior review by the Constitutional Court; the disproportion between the organizations in favour of "yes" (supporters of President Moreno) and "no"; the lack of dissemination of the "no" campaign; the use of state resources in favour of "yes"; and the lack of legibility/clarity of the questions asked⁵ .

On January 24, 2018, the UN Special Rapporteur on the independence of judges and lawyers told Ecuador:

⁴ Presidency of the Republic, Oficio No. T.141-SGJ-17-0331 of October 2, 2017.

⁵ OAS, "Preliminary Report on the Referendum in Ecuador by the Electoral Experts Mission of the organization of American States," February 5, 2018, https://www.oas.org/en/media_center/press_release.asp?sCodigo=S-002/18

"Our attention is particularly drawn to the matters that touch on the composition of the Council of Citizen Participation, a constitutional entity. According to this information, this would lead to the dismissal of the current members and the appointment of a new Council. It is alleged that this would lead to an appointment by the executive of the members of such Council and would affect, consequently, the autonomy of the Public Defender's Office, the Attorney General's Office and the organs of the Transparency and Social Control Function. Additionally, it is alleged that it could lead to the dismissal of the members of the Constitutional Court.

(...)

I would like your government to inform us, as soon as possible, on the following (...)

3. Guarantees that the ongoing process will not lead to a Citizen Participation Council controlled by the Executive Branch or affect the independence of bodies such as those mentioned above, in particular the Constitutional Court, the Attorney General's Office and the Public Defender's Office"⁶ ;

3. At the request of the CPCCS members, on February 6, 2018, the Inter-American Commission on Human Rights (hereinafter IACHR) asked the Inter-American Court of Human Rights to issue provisional measures: order the government to refrain from removing these members in order to create a CPCCS-Transitional (hereinafter CPCCS-T)⁷ .

The Inter-American Court of Human Rights did not consider the requested measure until after the dismissal of the members of the CPCCS, and therefore declared it without subject matter.

The appeal of the dismissed members of the CPCCS was declared admissible by the IACHR: *"the Commission considers that the allegations of the petitioner regarding their dismissal as members of the CPCCS are not manifestly unfounded and require a study of the merits since the alleged facts, if corroborated as true, could characterize violations of Articles 8 (judicial guarantees), 23 (political rights), 24 (equality before the law) and 25 (judicial protection) of the American Convention in relation to its Articles 1.1 (obligation to respect rights) and 2 (duty to adopt provisions of domestic law)"⁸ .*

4. In 2019, new elections were held to replace the politically appointed CPCCS-T.

⁶ UN Special Rapporteur on the independence of judges and lawyers, January 24, 2018, OL ECU 1/2018, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23589>

⁷ OAS press release, "IACHR refers request for provisional measures in favor of members of the Citizen Participation Council of Ecuador," February 6, 2018, <https://www.oas.org/es/cidh/prensa/comunicados/2018/021.asp>

⁸ IACHR, Report No. 195/21. Petition 2377-17. Admissibility. Edwin Leonardo Jarrín Jarrín, Tania Elizabeth Pauker Cueva and Sonia Gabriela Vera García. Ecuador, September 7, 2021, <https://www.oas.org/es/cidh/decisiones/2021/ECAD2377-17ES.pdf>

Previously, however, the CPCCS-T had succeeded in getting the "new" Constitutional Court (see below) to pass a resolution prohibiting the newly elected members from being able to evaluate the work of the CPCCS-T⁹.

As a result of this constitutional decree, the new members of the CPCCS, elected by popular vote, among other things to oversee the work of the CPCCS-T, were dismissed. Since the 2018 referendum, this institution is in crisis¹⁰, like many others¹¹.

5. Despite the guarantees requested by the UN Special Rapporteur on the independence of judges and lawyers, the process irregularly initiated in February 2018 led to the dismissal of all the judges of the Constitutional Court¹², of the attorney general, as well as 70% of the judges of the "National Court of Justice", the second highest court in the country (see below).

This was the first phase of a systematic dismantling of the judiciary.

2. Transitory Council of Citizen Participation (CPCCS-T)

6. The referendum called by L. Moreno took place on February 4, 2018.

Shortly thereafter, the members of the CPCCS were dismissed and a CPCCS-transitory was appointed by the National Assembly, instead of being elected, following the proposal of then President L. MORENO.

7. On March 13, 2018, the CPCCS-T resolved to initiate the evaluation process to all control authorities and those appointed by the dismissed Council of Citizen Participation and Social Control¹³.

On March 28, 2018, the Plenary of the CPCCS-T approved the Terms of Reference for the Evaluation of Authorities, which regulated the process of administrative investigation, evaluation, challenge and resolution on the authorities appointed by the dismissed Council for Citizen Participation and Social Control¹⁴ with the following administrative processes: request of a management report to the respective authorities; evaluation concluded with a Technical Investigation Report; the evaluated authority is informed of the Technical Report so that, within

⁹ El Comercio, "What are the decisions of the Cpccs-t armored by the Constitutional Court?", May 10, 2019, <https://www.elcomercio.com/actualidad/politica/CPCCS-T-dictamen-corte-constitucional-autoridades.html>

¹⁰ El Comercio, "El Cpccs va por su cuarto presidente", February 10, 2022, <https://www.elcomercio.com/actualidad/cpccs-presidente-hernan-ulloa-ecuador.html>

¹¹ Primicias, "Nine institutions in crisis due to resignations, dismissals and lack of renewal" February 23, 2022, <https://www.primicias.ec/noticias/politica/nueve-instituciones-inestabilidad-prorrogas-subrogaciones/>

¹² Jorge Luis Rivera Choez, Orlando Ivan Ronquillo Riera, "Removal of Constitutional Court members and its implications in Ecuador's domestic legal system," September 18, 2019, <https://recimundo.com/index.php/es/article/view/541>

¹³ CPCCS-T Plenary, Resolution No. PLE-CPCCS-T-O-001-13-03-2018.

¹⁴ CPCCS-T Plenary, Resolution No. PLE-CPCCS-T-O-009-28-03-2018.

three to ten days, it may exercise its right of defence; public hearing; application of the evaluation parameters previously determined by the Plenary of the CPCCS-T; decision within five days; challenge, after three days of the evaluated authority being notified; resolution on the claim under review by the CPCCS-T, last instance.

8. On May 14, 2018, the Permanent Committee for the Defence of Human Rights was already expressing its concern about the powers assumed by the CPCCS-t:

"We observe that several members of the Transitory Council of Citizen Participation and Social Control (CPCCS-T) have stated that the popular will has granted them an extraordinary power, and, on that basis, they have made a normative interpretation, even indicating that their acts are at the same level as the Constitution itself, we believe that this statement is a mistake. The effect of this is that the Transitory Council performs a series of acts exceeding the mandate received by the Ecuadorian people, arrogating to itself functions for which it has no attribution or competence such as: to appoint new authorities to replace the dismissed ones without observing that the specific laws do establish succession rules; to pretend to evaluate and dismiss the Constitutional Court whose appointment according to the Constitution does not correspond to the CPCCS but to a Qualifying Commission in which participate, among others, the Executive Function, the Legislative Function and the Transparency and Social Control Function, the latter conformed by several organs, that is to say that in this case the CPCCS-T pretends to assume integrally as the three functions of the State"¹⁵ .

Professor RUIZ-CHIRIBOGA, after having made a sharp analysis of the (i)legality of the February 2018 referendum, concluded that:

"The constitutional amendments sought by President Moreno should have been reviewed by the Constitutional Court, but Moreno evaded this review. The lack of constitutional review produced serious problems for democracy and human rights. Question 3 of the referendum creating the CPCCS-T was incomplete, unclear and blurred, which affected the electorate's right to vote with full knowledge of the facts. The Constitutional Court could have corrected the question had it been allowed to conduct its constitutional review. The obscurity of the question represented an obstacle to the expression of the popular will. (...)

The all-powerful CPCCS-T presented itself as the voice of the people. It had the arrogance to call its decisions "mandates", as if they had been approved by the people, presenting them as supra-constitutional. The CPCCS-T was unstoppable. It became an ad hoc administrative court that did not apply pre-established rules and procedures. The referendum altered the separation of powers and the autonomy of public functions.

¹⁵ Comité Permanente por la Defensa de los Derechos Humanos, "CPCCS-T EXTRALIMITA MANDATO DE CONSULTA POPULAR", May 24, 2018, <https://www.cdh.org.ec/ultimos-pronunciamentos/354-cpccs-t-extralimita-mandato-de-consulta-popular.html>

*Such a change, according to the Constitution, should not be approved by referendum. The 2018 constitutional amendments in Ecuador were unconstitutional."*¹⁶ .

3. Removal and replacement of the Judiciary Council

9. The Judiciary Council is the governing, administrative and disciplinary body of the Judicial Function (Ecuadorian judiciary). This body is not jurisdictional, so it cannot administer justice.

In June 2018, the CPCCS-T resolved to cease and terminate the term of the vocals of the Judiciary Council¹⁷ . It was also resolved to appoint five vocals in charge of the Judiciary Council until the appointment of the incumbents.

10. The President of the National Court of Justice, the State Attorney General, the Ombudsman, the Executive Branch and the National Assembly were to present a list of candidates to form the new Judiciary Council.

A technical commission, created by the CPCCS-T, was in charge of examining the candidates' qualifications, incompatibilities and merits, and then drew up a shortlist. In the end, the CPCCS-T carried out a "recusal" phase to keep only the desired candidates.

This brief description of the "procedure" followed to form the Council of the Judiciary illustrates the dominance of politicization over appointments to key state functions. CPCCS-T over the appointment to key State functions. The Council of the Judiciary is, in effect, the body that brings together the entire judicial institution: the National Court of Justice, the Attorney General of the State, the Ombudsman, etc.

On January 23, 2019, the CPCCS-T appointed the new principal members of the final Judiciary Council¹⁸ .

11. In the same Resolution, the CPCCS-T urged the new members of the Judiciary Council to, "in response to citizen demand", proceed to set the parameters and the immediate evaluation of judges and associate judges of the National Court of Justice.

Regarding the evaluation of the judges of one of the highest courts in the country, the CPCCS-T had already announced:

¹⁶ Oswaldo Ruiz-Chiriboga, "The 2018 Constitutional Referendum in Ecuador and the Transitory Council of Citizen's Participation and Social Control," from 2021, https://www.researchgate.net/publication/350740720_The_2018_Constitutional_Referendum_in_Ecuador_and_the_Transitory_Council_of_Citizen's_Participation_and_Social_Control free translation.

¹⁷ CPCCS-T, Resolution N°. PLE-CPCCS-T-O-037-04-06-2018 : decision

CPCCS-T, Resolution No. PLE-CPCCS-T-E-048-14-06-2018 : denial of appeals for review.

¹⁸ CPCCS-T, Resolution N°. PLE-CPCCS-T-O-240-23-01-2019

"It is stated that the evaluation of the members of the National Court of Justice must comply with the standards of due process guarantees indicated by the Inter-American Court of Human Rights. However, "at this point in the transition it would not guarantee these standards due to the insufficient time to evaluate the performance and individual productivity of the 21 judges and associate judges of the Court"¹⁹ .

4. Removal and replacement of the Constitutional Court

12. In August 2018, the CPCCS-T terminated the mandate of the nine judges of the Constitutional Court²⁰ .

On September 19, 2018, the Transitional Council approved the terms of reference for the process of selection and appointment of the members of the Constitutional Court by the "Qualifying Commission". This Commission was composed of delegates from the public administration appointed by the Transitory Council²¹ . At the end of the process, the CPCCS-T could still object and impede certain candidates under the pretext of "social control".

The Transitional Council validated the appointment of the 9 new members of the Constitutional Court on January 30, 2019²² .

13. The Constitutional Court, which was initially declared "vacant" for 60 days, remained so for more than five months vacancy" for 60 days, remained so for more than five months.

On May 7, 2019, at the request of the President of the CPCCS-T, the "new" Constitutional Court issued an "interpretative opinion" that prohibits the future elected CPCCS-T from reversing decisions adopted by the CPCCS-T:

"The definitive Council of Citizen Participation and Social Control does not have the extraordinary powers that the "Transitional Regime of the Council of Citizen Participation and Social Control" granted to the Transitory Council. For this reason, it does not have the power to review the decisions made by the Transitory Council in exercise of those powers"²³ .

¹⁹ Transitional Council press release no. 212, September 19, 2018. Online: <https://www.cpccs.gob.ec/2018/09/la-corte-nacional-de-justicia-sera-evaluada-por-el-consejo-de-la-judicatura-definitivo/>

²⁰ El Comercio, "Consejo de Participación transitorio cesa a los nuevos jueces de la Corte constitucional," August 23, 2018, <https://www.elcomercio.com/actualidad/consejo-participacion-ceso-corte-constitucional.html>

²¹ Transitional Council press release no. 214, September 19, 2018. Online: <https://www.cpccs.gob.ec/2018/09/se-aprobo-mandato-de-designacion-de-la-corte-constitucional-cc/>

²² Transitional Council press release no. 408 dated January 30, 2019. Online: <https://www.cpccs.gob.ec/2019/01/designados-nuevos-miembros-de-la-corte-constitucional-del-ecuador/>

²³ Constitutional Court, "Constitutional interpretation of the extraordinary powers "Transitional regime of the Council of Citizen Participation and Social Control"," number 2-19-IC/19, May 7, 2019, <https://portal.corteconstitucional.gob.ec/FichaRelatoria.aspx?numdocumento=2-19-IC/19>

5. Removal and replacement of judges of the National Court of Justice (CNJ)

14. The "new Council of the Judiciary" has been charged by the CPCCS-T to evaluate the judges of the National Court of Justice in light of "citizen demand".

The Plenary of the Judiciary Council approved the different resolutions to "fix" the new rules for dismissing and appointing judges of the highest jurisdiction in the country²⁴.

The process of drafting the rules, establishing an "expert committee", preparing a report on the work of the judges, conducting written and oral examinations and reviewing appeals lasted only 7 months: from February to November 2019. At the end of this process, 70% of the judges of the National Court of Justice (hereinafter CNJ) were dismissed.

After the dismissals, the Council of the Judiciary resolved to *"Declare the extraordinary and emergent need for the appointment of temporary associate judges in the National Court of Justice", from among the judges of the Provincial Courts and the Contentious Administrative and Tax Courts of the country to replace those who had not passed the evaluation.*²⁵ The Judiciary Council resolved: *"To declare the extraordinary and emergent need for the appointment of temporary judges in the National Court of Justice", from among the judges of the Provincial Courts and Administrative and Tax Courts of the country to replace those who*

²⁴ Resolution No. 010-2019 of February 19, 2019, whereby it issued the *"Regulations for the comprehensive evaluation of judges and associate judges of the National Court of Justice of the Republic of Ecuador"*.

Resolution No. 035-2019 of March 26, 2019, whereby it issued the *"Instructions for the formation and operation of the committee of experts and the evaluation committee of the comprehensive evaluation process of judges and associate judges of the National Court of Justice of the Republic of Ecuador"*.

* Resolution No. 059-2019 of April 26, 2019, by which it resolved to *"Appoint the members of the Committee of Experts for the Comprehensive Evaluation of Judges and Associate Judges of the National Court of Justice"*.

Resolution No. 094-2019 of June 18, 2019, whereby it resolved to *"Approve the final report corresponding to the Comprehensive Evaluation Methodology for judges and associate judges of the National Court of Justice and its annex"*.

Resolution No. 103-2019 of July 2, 2019, whereby it resolved to *"Reform Resolutions 010-2019 and 035-2019, regarding the incorporation of social control in the process of comprehensive evaluation of judges of the National Court of Justice"*.

Resolution No. 116-2019 of July 12, 2019, whereby it resolved to *"Appoint the members of the Committee of Evaluators for the Comprehensive Evaluation of the judges and co-judges of the National Court of Justice"*.

Resolution No. 140-2019 of September 6, 2019, whereby it resolved *"To specify that the delivery of results to the person evaluated by this Committee consists of recording, through a record, that the indicators for the oral evaluation of orders and/or judgments have been met in terms of time (...)"*.

Resolution No. 141-2019 of September 7, 2019, whereby it resolved to *"Open the phase of oral substantiation of competencies in the exercise of their office of the judges and co-judges of the National Court of Justice and declare itself in permanent session during September 7, 8, 9 and 10, 2019"*.

Resolution No. 147-2019 of September 17, 2019, whereby it resolved: *"To specify the content within the evaluation criteria for the "quality analysis of admission / inadmissibility orders" for the judges of the National Court of Justice"*.

Resolution No. 163-2019 of October 23, 2019, whereby it resolved: *"To approve the final report of the results of the comprehensive evaluation process of the judges and co-judges of the National Court of Justice"*.

Resolution No. 187-2019 of November 15, 2019, whereby it resolved: *"To approve the final results report and declare the comprehensive evaluation process of judges and associate judges of the National Court of Justice concluded"*.

²⁵ Plenary of the Judiciary Council, Resolution No. 188-2019 of November 15, 2019.

had not passed the evaluation carried out. It resolved: *"To appoint the temporary co-judges for the National Court of Justice"*²⁶. According to the list, 26 temporary judges were appointed, who took office on December 2, 2019.

15. This process clearly undermines the principles of independence and impartiality of justice.

On September 18, 2019, the UN Special Rapporteur on the Independence of Judges and Lawyers (REIMA) reiterated his concern to Ecuador:

"In the context of the aforementioned issue and taking into account the allegations received, I would like to express my concern about the fact that the comprehensive evaluation process of the judges and co-judges of the National Court of Justice of the Republic of Ecuador may not meet international standards on the matter, should those allegations be founded. It should be emphasized that any judicial evaluation process must ensure effective compliance with the principle of judicial independence."

*The evaluation process and the criteria established could affect the principle of judicial independence and involve interference or intimidation in the judicial process. Moreover, there could be a risk that the purpose of the evaluation could be to justify removals or serious disciplinary proceedings, which would violate the principle of irrevocability and the standards for the imposition of disciplinary measures, suspension and removal from office. This risk is accentuated when, according to the allegations presented, the evaluation criteria established in the process conflict with the objective of a performance evaluation and include disciplinary issues that would have the purpose of removing judges from office"*²⁷.

On June 10, 2020, the REIMA returned to Ecuador:

"Without prejudice to the expansion of information on the facts of the case, I express my deep concern about the consequences that the new evaluation procedure for judges and associate judges of the National Court of Justice and the removal of judges and magistrates, as well as the conditions of instability in the performance of the functions of judges and temporary magistrates of the court, could have for the independence and impartiality of the judiciary in Ecuador."

In this regard, I note with concern the flaws in the Regulations for the comprehensive evaluation of judges and associate judges of the National Court of Justice, the composition of the Support Committee for the comprehensive evaluation, and the report prepared by the same that formed the basis for the decision taken by the plenary of the

²⁶ Plenary of the Judiciary Council, Resolution No. 197- 2019 of November 28, 2019.

²⁷ REIMA, September 18, 2019 appeal, AL ECU 14/2019, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24848>

Judiciary Council to dismiss the judges and associate judges, apparently without due consideration of the applicable internal legal constraints.

In addition, I express my grave concern about the consequences of the appointment of temporary judges, apparently without a clear basis in domestic law, for the administration of justice in the National Court of Justice. I recall that the establishment of a situation in which the judiciary can be controlled, directed or influenced in the performance of its judicial functions is incompatible with the notion of an independent court"²⁸.

16. Several judges dismissed from the National Court of Justice have filed judicial appeals in Ecuador.

On December 21, 2021, the Constitutional Court invalidated the impeachment process of the CNJ judges:

"89. In this regard, this Agency has explained that: "Institutional judicial independence, both internal and external, is essential, in turn, to guarantee the individual or functional independence of the judges, so that the parties can exercise their right to an independent, impartial and competent judge, in accordance with Article 76, paragraph 7 (k) of the Constitution (...) Judicial independence is, therefore, a basic guarantee of due process of law, but not only because of the specific right to be judged by an independent judge, but also because of the independence of the judiciary. (...) Judicial independence constitutes, therefore, a basic guarantee of due judicial process, but not only because of the specific right to be judged by an independent judge, but also because the independence of the judge depends, in turn, on the due protection of other rights and principles, some of which are part of due process".

(...)

94. This Constitutional Court emphasizes that judicial independence is a right of the justiciable, a guarantee of due process and a principle that constitutes a structural element of the system of administration of justice.

(...)

141. In the present case, regarding the guarantee of determination of the judges and associate judges of the National Court of Justice, it is observed that constitutionally and legally their appointment has been established for a fixed term of nine years.

(...)

143. In this sense, (...) and therefore, it generated the violation of legal certainty, because the realization of an evaluation process on all the members of the National Court of Justice, whose consequence was the removal and whose opportunity and

²⁸ REIMA, appeal of June 10, 2020, AL ECU 1/2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25333>

frequency were unpredictable, "would be equivalent to relativize the duration of their mandates, with the same effects of a "ratification".

(...)

149. In the American Convention on Human Rights, Article 9 contemplates the principle of legality by stating that: "No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under the applicable law at the time it was committed.

(...)

(...) the derivation of the sanctioning process by means of regulations infringes the principle of legality of the infringements and their sanctions"²⁹ .

Judge JIMENEZ's concurring opinion, more in line with international standards, also states:

"14. However, in my opinion, the evaluation becomes detrimental to judicial independence when under ordinary constitutional conditions it: 1) is not carried out in accordance with the time limits and normative parameters pre-established in the law and, 2) unduly enters the sphere inherent to the jurisdictional activity, to justify the removal.

(...)

20. In my opinion, it is clear that on the basis of Resolution No. 10-2019, an evaluation was proceeded to regulate and execute an evaluation regarding this interpretative activity of the national judges that served as the basis for their unconstitutional removal. This evaluation is even confused in the aforementioned Resolution with a disciplinary process, an issue that is analysed in the majority vote. The evaluation resulted in that, based on a report issued by an ad-hoc committee, which does not exercise jurisdiction, the CJ removes national judges, without following the deadlines and procedures previously established by law, also violating judicial independence" (pp. 57-60)³⁰ .

The analysis of Judges SALAZAR MARIN and LOZADA PRADO, more in line with international requirements, is along the same lines:

" 5.1. The guarantee of irrevocability was violated by the removal of national judges and associate judges without having guaranteed due process, in particular, by having violated the principle of legality, legal certainty and the procedure set forth in the Organic Code of the Judicial Function ("COFJ").

5.2. The guarantee of irrevocability of judges was violated by the removal of 70% of an Ecuadorian High Court outside the periods allowed by the Constitution.

²⁹ Constitutional Court of Ecuador, Decision No. 37-19-IN/21, December 21, 2021, http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcBldGE6J3RyYW1pdGUUnLCB1dWlkOidiODc2MzYwMy04MjZkLTRmYWVlOC0xNDMxODhhY2UxOWUucGRmJ30=

³⁰ Constitutional Court of Ecuador, Decision No. 37-19-IN/21, December 21, 2021, http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcBldGE6J3RyYW1pdGUUnLCB1dWlkOidiODc2MzYwMy04MjZkLTRmYWVlOC0xNDMxODhhY2UxOWUucGRmJ30=

5.3. *The guarantee against external pressures was violated because the quality of the rulings and orders was used as the main and determining criterion to remove the judges and co-judges evaluated.*

(...)

30. *We consider that the mere fact that judges have been removed outside the renewal periods established in Article 187 of the Constitution is more than enough to constitute, by itself, a violation of the guarantee of removability. The unforeseen and arbitrary implementation of a comprehensive evaluation process outside the constitutionally established periodicity constitutes a breach of the State's obligation to refrain from removing judges for reasons other than the completion of the term or the commission of very serious misconduct.*

31. *In addition, this may sow doubts in a reasonable observer as to the motivations behind the evaluation process.*

(...)

34. *It is extremely relevant to consider that the process under examination in this case culminated with the removal of more than 70% of the judges, judges, co-judges and co-judges evaluated. Undoubtedly, what happened can be described as a massive removal of judges and associate judges from the National Court of Justice, the highest body for the administration of ordinary justice, which is extremely worrisome.*

(...)

39. *However, it is no less true that evaluating the quality of the rulings of a High Court can be at odds with judicial independence, by generating a chilling effect on judges. The control of the quality of the rulings may condition the judges with respect to the power in power. If a national judge is aware that the Judiciary Council may in the future use its legal criteria to remove him or her from office, this generates external pressure, in that it may condition the predisposition of judges to adopt decisions that are not to the liking of the Judiciary Council or even the political power in power" (pp. 65 et seq.)³¹*

17. Beyond the sanction of the evaluation process of the CNJ judges, protection/reparation actions have also been filed by some dismissed judges.

Thus, on December 30, 2021, the Provincial Court of Justice of Pichincha highlighted the seriousness of the violations of fundamental rights committed. For the Special Chamber, there is no doubt that *"In the specific case, the defendant entity through the Evaluation Process carried out to the judges and co-judges of the National Court of Justice in 2019 violated the right to due process; judicial independence and no removability of judges and co-judges elected for a fixed term."* The Provincial Court of Pichincha determined that the members in charge of

³¹ Constitutional Court of Ecuador, Judgment No. 37-19-IN/21, December 21, 2021, http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcNBldGE6J3RyYW1pdGUUnLCB1dWlkOidiODc2MzYwMy04MjZkLTRmYWVlOC0xNDMxODhhY2UxOWUucGRmJ30=

evaluating the judges of the CNJ were not impartial; they changed the rules and procedures during the evaluation process; they ruled on the quality of the sentences issued, without having any jurisdictional power; they intervened outside the constitutionally established deadlines; they illegally sanctioned the dismissed judges outside the existing disciplinary framework³².

18. After the decisions of the Constitutional Court and the Provincial Court of Pichincha, a controversy has arisen in Ecuador: what should happen with the decisions of the illegally appointed temporary judges³³ ?

In a press release dated January 3, 2022, the Judiciary Council bizarrely stated:

"The Plenary of the Judiciary Council (CJ) warned that the ruling of the Criminal Court of the Court of Pichincha - which favour judges removed from the National Court of Justice (CNJ) for failing the 2019 evaluation - contradicts the ruling of the Constitutional Court (CC), which already ruled on this issue.

At a press conference this Monday, January 3, 2022, the authorities of the CJ announced that they will file an appeal for amplification and clarification and an extraordinary action for protection against the Provincial Court's ruling, since its content goes against the pronouncement of the Constitutional Court (Ruling 37-19-IN/21).

(...)

The authorities recalled that on December 29, 2021, the institution filed before the CC, an Appeal for Clarification and Extension of Ruling 37-19-IN/21, since it did not consider that the CJ developed the evaluation of judges and judges of the CNJ, based on the exhortation formulated by the Transitional Participation Council"³⁴.

The serious institutional crisis created by the unconstitutional referendum of February 2018 continues.

6. Removal from office and appointment of a new Attorney General of the State (FGE)

19. Parallel to the replacement of the Judiciary Council, the Constitutional Court and the National Court of Justice, the CPCCS-T evaluated and replaced the State Attorney

³² SALA ESPECIALIZADA DE LO PENAL, PENAL MILITAR, PENAL POLICIAL Y TRÁNSITO DE LA CORTE PROVINCIAL DE JUSTICIA DE PICHINCHA, Juicio Especial No. 17160202000272, Thursday, December 30, 2021, available at <http://consultas.funcionjudicial.gob.ec/informacionjudicial/public/mobil.jsf;jsessionid=WFO+9cEDsGFtG5W78pm9EORD>

³³ Regarding this: Primicias, "Qué pasó en la evaluación de jueces de 2019 que tiene en apuros a la Judicatura", January 3, 2022, <https://www.primicias.ec/noticias/politica/evaluacion-destitucion-jueces-apuros-judicatura/>

³⁴ "Consejo de la Judicatura alerta que fallo provincial que favorece a exjueces contradice a Corte Constitucional", January 3, 2022, <https://www.funcionjudicial.gob.ec/es/saladeprensa/noticias/item/10593-consejo-de-la-judicatura-alerta-que-fallo-provincial-que-favorece-a-exjueces-contradice-a-corte-constitucional>

General (hereinafter FGE)³⁵, a key position in the "judicial apparatus". In fact, the FGE is the one who initiates and directs criminal proceedings.

After the dismissal of the FGE, several people have occupied this position before the elaboration of an appointment process through an evaluation by a Citizen Technical Selection Commission (evaluation value: 50/100), an Academic Commission (evaluation value 20/100) and the CPCCS-T (evaluation value 30/100). After the written tests regarding the legal knowledge of the candidates, "*Julio César Trujillo, president of the CPCCS-T, said that he expects that "the best lawyer" will be appointed as head of the Attorney General's Office, for his or her integrity, wisdom and honesty. Trujillo pointed out that the State Attorney General "is the most powerful official in Ecuador"*"³⁶. The table of evaluation of the candidates for the post of attorney general shows without a doubt that the attorney general, D. SALAZAR, was not chosen at all for her legal abilities (score obtained 10/20, inferior to other contestants) but for her political connections, allowing her to suddenly overtake much more deserving candidates than herself³⁷.

20. At the same time, the appointment of "temporary magistrates" in the Attorney General's Office, which is detrimental to the independence of the function, is a practice that continues to occur.

Thus, in a resolution dated May 31, 2021, the Judiciary Council states:

"(...) the detail of the vacant positions of Fiscal Agents as of this date, showing a total of twenty-nine (29) vacant positions; seventeen (17) are effectively vacant and twelve (12) are identified as vacant/dismissal.

(...)

Article 2: The Plenum of the Council of the Judiciary shall appoint the prosecutors and agents.

*temporary taxation in accordance with the determination of the extraordinary need set forth in the preceding article"*³⁸.

7. Conclusion

21. In its Rule of Law Report 2020, the European Commission recalled that:

³⁵ Plenary of the CPCCS-T, Resolution No. PLE-CPCCS-T-O-009-28-03-2018 of April 4, 2018.

³⁶ El Comercio, "El Cpccs difundió las notas obtenidas por los postulantes a Fiscal General en el examen escrito", 19 February 2019, <https://www.elcomercio.com/actualidad/cpccs-notas-postulantes-fiscal-examen.html>

³⁷ Diana Salazar obtained a total of 88.17 with the following scores: Citizens' Technical Selection Committee (49/50), Academic Committee (10/20) and CPCCS-T (28.17/30).

His immediate "rival", Merck Milko Benavides Benalcázar, obtained a score of 85.17 with the following marks: Citizens' Technical Selection Commission (50/50), Academic Commission (13/20) and CPCCS-T (22.17/30).

The most qualified lawyer, Javier Bosques Villena, only obtained a 77.91 with the following scores: Citizens' Technical Selection Committee (44.01/50), Academic Committee (15/20) and CPCCS-T (18.9/30).

³⁸ Judiciary Council, Resolution 070/2021, May 31, 2021, <https://www.funcionjudicial.gob.ec/www/pdf/resoluciones/2021/070-2021.pdf>

"The European Union is based on a set of common values, such as fundamental rights, democracy and the rule of law. They are the basis of our societies and our common identity. No democracy can function without independent jurisdictions that protect fundamental rights and public freedoms and without an active civil society and a free and pluralistic media. (...)

The rule of law is enshrined in Article 2 of the Treaty on European Union as one of the common values of all Member States. It guarantees that all public authorities always act within the limits established by law, in accordance with the values of democracy and fundamental rights, and under the control of independent and impartial jurisdictions. (...)

The rule of law has a direct impact on the life of every citizen. It is a prerequisite for equal treatment before the law and for the defence of the rights of citizens of the Union. (...) The existence of national mechanisms that balance powers and maintain respect for the rule of law is essential to ensure that such restrictions on our rights are limited to what is strictly necessary and are proportionate, limited in time and subject to the control of national parliaments and jurisdictions"³⁹ .

22. It follows from the above that the balance of powers has completely broken down in Ecuador.

The country's most senior judges of the Constitutional Court and 70% of the members of the National Court of Justice were arbitrarily removed from office, in clear violation of international law. None of the dismissed judges had committed any serious misconduct. The guarantees of independence and impartiality of judges and prosecutors are no longer guaranteed.

Justice has become an instrument of politics to criminalize "opponents". Political persecution, through unfair criminal/administrative proceedings, has multiplied (see below). The magistrates who do not follow the "guidelines" of the new State Attorney General. The risk of being dismissed for decisions made in the exercise of their functions is high for those magistrates who do not follow the "guidelines" of the new State Attorney General. At the same time, the media amplify the message of authorities interfering in judicial proceedings, preparing public opinion for the most legally aberrant decisions, lacking any evidentiary basis or contrary to international law.

These elements indicate a breakdown of the rule of law in Ecuador.

B. Use of the judiciary for political persecution/repression

³⁹ European Commission, "Rapport 2020 sur l'état de droit La situation de l'état de droit dans l'Union européenne", 30 septembre 2020, COM(2020) 580 final, available at https://ec.europa.eu/info/sites/info/files/communication_2020_rule_of_law_report_fr_0.pdf

1. Contextualization

23. In Latin America, what can be called a "judicialization of politics" seems to have become widespread.

The expression means that political conflicts are resolved through the instrumentalization of justice. This phenomenon is so worrisome that it led the Inter-American Commission on Human Rights to request an advisory opinion from the Inter-American Court of Human Rights⁴⁰. Recalling what happened in Honduras, Paraguay and Brazil, the Commission considered that "*such situations should call attention to possible cases of distortion of the figure of impeachment, with the consequent risk of its arbitrary use as a cover for a parliamentary coup d'état*" (§10).

It should be noted that Ecuador opposes the issuance of this opinion and argues in favour of the inadmissibility of the request formulated by the Inter-American Commission on Human Rights⁴¹.

24. As this phenomenon grew, the Lawfare Institute was created, a body that studies the misuse of law as a "weapon" to achieve a political objective, as a tool to discredit a political enemy.

This organization describes the term "lawfare" as follows:

*"The term lawfare was created in 2001 by U.S. Army Major General Charles Dunlap and has since been studied at leading universities such as Harvard, for example. Lawfare is a powerful weapon to combat political enemies, combining apparently legal actions with extensive media coverage. The idea is to disrupt the enemy to the point where they become extremely vulnerable to unfounded accusations. Once weakened, they lose popular support and all power to react"*⁴².

This Institute analysed the case of Ecuador and considered that lawfare acted in several processes against various political figures linked to the movement of former President CORREA DELGADO⁴³.

⁴⁰ IACHR, " Demande d'avis consultatif : démocratie et droits de l'homme dans le cadre des procès politiques ", 13 October 2017, https://www.corteidh.or.cr/docs/solicitudoc/solicitud_13_10_17_fre.pdf

⁴¹ Ecuador, Observations transmitted on April 26, 2018 by the Embassy of Ecuador in Costa Rica, San José, ref. n°4-3-14/2018.

⁴² Free translation of:

"The term lawfare was created in 2001 by US army major General Charles Dunlap, and has been studied ever since in major universities such as Harvard, for example. Lawfare is a powerful weapon for fighting political enemies, combining apparently legal actions and widespread media coverage. The idea is to embarrass the enemy to the point where they become extremely vulnerable to the baseless accusations. once weakened, they lose popular support and any power of reaction".

Institute Lawfare - About the Institute - http://lawfareinstitute.com/?page_id=4

⁴³ Lawfare Institute, "Expert opinion issued on occurrence of lawfare in Ecuador," October 18, 2018, <http://lawfareinstitute.com/expert-opinion-issued-on-occurrence-of-lawfare-in-ecuador/>

25. As a reminder, on May 24, 2017, Mr. CORREA DELGADO voluntarily resigned from the presidency of Ecuador.

It was the candidate of his party, Alianza País, who won: Mr. Lenín Moreno. Consequently, everyone expected continuity of governmental action. However, from the first days of Moreno's government, decisions and measures were taken that completely broke with previous policies.

L. Moreno made a series of statements questioning the policies of his predecessor, accusing him of not having prepared the transition, of having over-indebted the country, of having created an economic crisis, of having poorly executed public works, of having announced his desire to distance himself from the Union of South American Nations (UNASUR), created in 2008 to "counterbalance" the OAS⁴⁴, etc., etc. Shortly after his appointment, President Moreno began to appoint people opposed to the outgoing president to public positions. Among the decisions taken by L. Moreno, the suppression of the political asylum granted to Julian Assange also testifies to the turnaround.

Elected in tandem with Lenín Moreno as vice president, Jorge Glas publicly accused the Moreno administration of improper practices. This provoked the beginning of an avalanche of judicial proceedings, violating the basic norms of a fair trial, against the now so-called "correístas"⁴⁵.

26. The intention to purge all officials loyal to the ideals and/or policies of former President CORREA DELGADO was clearly expressed.

⁴⁴ Lenín MORENO has finally announced that he will leave UNASUR in March 2019.

⁴⁵ The systemic and widespread nature of political persecution could fall within the scope of Article 7(1)(h) of the ICC Statute, which provides:

"Article 7 Crimes against humanity

For the purposes of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against a civilian population, with knowledge of the attack:

a) Murder;

b) Extermination;

c) Slavery;

d) Deportation or forced population transfer;

(e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;

f) Torture ;

g) Rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization or any other form of sexual violence of comparable gravity;

(h) Persecution of a self-identified group or collectivity on political, racial, national, ethnic, cultural, religious, gender, or other grounds universally recognized as unacceptable under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court".

The Minister of Communication indicated in October 2018 that it was necessary to combat "correístas moles" throughout the Ecuadorian government⁴⁶. The newspaper El Comercio headlined "The Government announces a purge to 'correct' the Executive":

"'Mafia', 'fanatics', 'moles'. Those are the terms used by the Government authorities to refer to officials of their administration who remain from the previous Regime and who, according to them, have established a system to guarantee impunity for corruption."

(...)

"GRANDA therefore recommends to other ministers and secretaries of state to conduct an evaluation of employees and collaborators of the institutions they lead to identify more infiltrators."⁴⁷

With the argument of the "fight against corruption", as he did to disintegrate the judicial function, and despite the fact that he himself was for a long time a member of the State apparatus, Mr. Moreno and his government made war on the "correista moles":

"'Since his arrival to power in May 2017, and after discovering a whole series of alleged embezzlements that had left the public coffers empty, Moreno made the fight against corruption one of his main objectives (...)

(...)

"We have -and we have to be very sincere- Correa's moles entrenched in the whole system of the Government and State functions. We have many entrenched moles", acknowledged the national secretary in view of this possibility.

(...)

A man of Moreno's confidence and the most visible face of this new way of doing politics that the president of Ecuador has institutionalized, Michelena insists that the message of the fight against corruption is "forceful"⁴⁸.

27. The change of president in 2021 has not changed the authorities' discourse.

The intervention of the authorities in the judicial processes related to the "correístas" continues to be highlighted (see below). In 2022, the President of the Republic, Guillermo Lasso, acknowledged that *'he has set the goal that correísmo does not return to the Government, although, he said, he must hand over power to someone else, he stated that it must be someone*

⁴⁶ EFE, "Ecuador has correista moles throughout government system, says communication minister," October 24, 2018, <https://www.efe.com/efe/america/politica/ecuador-tiene-topos-correistas-en-todo-el-sistema-de-gobierno-dice-ministro-comunicacion/20000035-3791343>

⁴⁷ El Comercio, "El Gobierno anuncia una purga para descorreizar al ejecutivo," October 25, 2018, <https://www.elcomercio.com/actualidad/gobierno-anuncia-purga-descorreizar-ejecutivo.html>

⁴⁸ Entorno Inteligente, "ANDRÉS MICHELENA: 'ECUADOR HAS CORREIST MOLES THROUGHOUT THE ENTIRE GOVERNMENT SYSTEM,'" April 24, 2018, <https://www.entornointeligente.com/andrs-michelena-ecuador-tiene-topos-correstas-en-todo-el-sistema-de-gobierno/>

*who respects the fundamentals of democracy, freedom, who believes in free enterprise, initiative, private entrepreneurship*⁴⁹.

28. An indispensable factor in lawfare is the creation of the figure of the enemy and the amplification by the press of the accusations made against this political enemy.

The media have been widely used to influence public opinion in Ecuador. This factor reflects the lack of a fair trial for the victims of these media campaigns.

The following cases only illustrate the phenomenon of lawfare against "correístas" in Ecuador. Many correístas, or alleged correístas, working in the administration have lost their jobs for this reason alone and/or are subject to discrimination/threats/evictions. Few have the knowledge, will and means to fight in court to try to enforce their rights. Lawfare has recently extended to indigenous leaders of the June 2022 protests (see below).

⁴⁹ Radio Pichincha, "Me he planteado la meta de que los correístas no puedan regresar al Gobierno, reconoce Guillermo Lasso", June 5, 2022, <https://www.pichinchacomunicaciones.com.ec/me-he-planteado-la-meta-de-que-los-correistas-no-puedan-regresar-al-gobierno-reconoce-guillermo-lasso/>

2. Rafael Correa Delgado's case

29. The former president of Ecuador CORREA DELGADO has been criminally prosecuted in two cases: the "Balda" case and the "Bribes" case.

He was directly and publicly presented by the authorities, with wide press coverage, as guilty of the alleged crimes.

On January 24, 2018, the UN Special Rapporteur on the Independence of Judges and Lawyers (REIMA) has made a call of attention to Ecuador regarding its international obligations and on the guarantees that must be given so that the trial was conducted in an independent and impartial manner⁵⁰. The Special Rapporteur reiterated his concern on January 28, 2019⁵¹. The Commission for the Control of Interpol's Files refused to disseminate the red notices requested by Ecuador⁵². When questioned by others involved in the "Bribery case", REIMA reiterated on July 9, 2021⁵³ and on January 26, 2022⁵⁴ its serious concern not only about the lack of independence and impartiality of the judges in this case, but also about the violation of other facets of the right to a fair trial.

30. In both cases, the legal figure of "effective collaboration" - denunciation of a defendant in exchange for a reduced sentence - was fundamental.

Although objective evidence is required to corroborate the informant's assertions, these cases lack it. In the "Balda" case, the main effective collaborator, Mr. Chicaiza, later admitted that he had been pressured, including by the president of the CPCCS-T, to implicate the former president⁵⁵.

In the "Bribery" case, the notebook that supported the testimony of P. Martínez, the effective collaborator, was, according to her own confession, written years after the criminal acts and was allegedly transcribed at the same time⁵⁶. P. Martinez could never be cross-examined by

⁵⁰ REIMA, appeal of January 24, 2018, OL ECU 1/2018, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23589>

⁵¹ REIMA, appeal of January 28, 2019, AL ECU 2/2019, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24304>

⁵² EuropaPress, "Interpol refuses for the third time to issue its 'red alert' against former Ecuadorian President Rafael Correa," August 18, 2021, <https://www.europapress.es/internacional/noticia-interpol-rechaza-tercera-vez-emitir-alerta-roja-contra-expresidente-ecuatoriano-rafael-correa-20210818233148.html>

⁵³ REIMA, appeal of July 9, 2021, AL ECU 2/2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26537>

⁵⁴ REIMA, appeal of January 26, 2022, AL ECU 1/2022, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26981>

⁵⁵ Confirmado.net, "Caso Balda: Chicaiza afirmó que Trujillo le amenazó con 9 años de prisión si no implicaba a Correa en el supuesto secuestro de Balda", 3 January 2022, <https://confirmado.net/2022/01/03/caso-balda-chicaiza-afirmo-que-trujillo-le-amenazo-con-9-anos-de-prision-si-no-implicaba-a-correa-en-el-supuesto-secuestro-de-balda/>

⁵⁶ Confirmado.net, "Ecuador: le armaron la "causa de los cuadernos" a Rafael Correa pero los escribieron cuando ya no era presidente," September 7, 2019, <https://confirmado.net/2019/09/07/ecuador-le-armaron-la-causa-de-los-cuadernos-a-rafael-correa-pero-los-escribieron-cuando-ya-no-era-presidente/>

the defence. For this trial, the Attorney General's Office created an Internet page to propagate its accusations through, among other things, multiple video clips, accompanied by a martial music background⁵⁷. At the end of this procedure, Mr. CORREA DELGADO was sentenced as perpetrator of a crime of corruption by psychic influence⁵⁸, as head of a State qualified as a criminal organization, to 8 years imprisonment with prohibition to exercise his political rights. The duration and timing of the Bribes case attest to the political purpose of the prosecution. The entire case against almost 20 defendants, including the investigation, was processed in only 17 months, despite the pandemic that had justified the paralysation of all other proceedings in the country. The Court of Cassation resolved the 16 appeals introduced against the more than 820 pages of the appealed sentence in a record time of 20 days⁵⁹, and issued a 231-page sentence. Sentence that came out at the right time to prevent Mr. CORREA from running for the vice-presidency in the 2021 elections.

31. Former President CORREA DELGADO is also involved in a multitude of other, less successful, proceedings on sometimes totally implausible charges.

He is being investigated for "crimes against humanity/extrajudicial execution".⁶⁰ with respect to events that occurred on September 30, 2010, the day on which he himself was the victim of an attempted coup d'état condemned by the international community⁶¹.

The avalanche of denunciations, supported by the authorities and commented on in the press, is a sign of the lawfare underway in Ecuador.

32. On March 15, 2022, Belgium recognized the refugee status of Ecuador's former president⁶² as a result of political persecution in the form of unfair criminal proceedings.

This news was widely disseminated and brought to the attention of the Ecuadorian authorities. The Ecuadorian authorities continued to insist in the media that they would request extradition

⁵⁷ Cf: <https://www.fiscalia.gob.ec/caso-sobornos-2012-2016/>

⁵⁸ Confirmado.net, "Rafael Oyarte: "Qué pendejada fueron a meter en el fallo", sobre sentencia contra Correa de autoría mediata por influjo psíquico", 21 May 2021, <https://confirmado.net/2021/05/21/rafael-oyarte-que-pendejada-fueron-a-meter-en-el-fallo-sobre-sentencia-contra-correa-de-autoria-mediata-por-influjo-psiquico/>

⁵⁹ Primicias.ec, "Un trámite falta para que se ejecute la sentencia de Rafael Correa", 7 September 2020, Primicias.ec: <https://www.primicias.ec/noticias/politica/sobornos-decision-casacion/>

⁶⁰ El Comercio, "16 denuncias vinculadas con el 30-S apuntan a Rafael Correa", September 29, 2019, <https://www.elcomercio.com/actualidad/denuncias-victimas-insubordinacion-rafael-correa.html>

⁶¹ El Comercio, '30S police insubordination', <https://especiales.elcomercio.com/2011/09/30s/>

The event has been unanimously condemned by most Latin American countries and the United States, as well as Unasur, the OAS, the UN and ALBA: https://es.wikipedia.org/wiki/Crisis_pol%C3%ADtica_en_Ecuador_de_2010#Reacci%C3%B3n_internacional

⁶² Rtbf, "Diplomatie : la Belgique accorde l'asile à l'ex-président équatorien Rafael Correa", 22 April 2022, <https://www.rtbf.be/article/diplomatie-la-belgique-accorde-l-asile-a-l-ex-president-equatorien-rafael-correa-10979730>

to Belgium, despite previous refusals by Interpol⁶³. This new media campaign was carried out despite the non-refoulement obligation implied by the political refugee status⁶⁴.

3. The case of Jorge GLAS

33. The case of former Vice President Jorge Glas is an emblematic example of lawfare.

Jorge GLAS took a very firm position against the new policy implemented by Lenín Moreno. As soon as the vice president, elected with the same electoral ballot as Mr. Moreno, publicly manifested his continued support for the policies backed by Mr. Correa Delgado, a political and judicial persecution against him began, supported by President Moreno⁶⁵.

34. Jorge Glas was accused for the first time in the "Odebrecht" case, linked to the famous "Lava Jato" operation in Brazil.

In October 2017, former Vice President Jorge Glas was arrested in the framework of the "Odebrecht case". Very quickly, in December 2017, he was sentenced to six years in prison, which was confirmed on appeal. It was in connection with this case that, in October 2018, the lawfare Institute analysed in detail the manner in which the former vice president was placed in pretrial detention, deprived of the office to which he had been elected and sentenced without the benefit of basic due process⁶⁶. The conviction of Jorge Glas was based mainly on the statements of Brazilian "effective co-operators" who could never be questioned by the defence. There is no objective evidence to support the accusations of the informants, who enjoyed total impunity in Ecuador. The case is now before the Inter-American Court of Human Rights (see below).

The reliability of the testimonies of Odebrecht employees has also been strongly questioned since former Odebrecht director Carlos Armando Paschoal revealed that he was "almost forced"

⁶³ Diariocorreo, "Cancillería pedirá a Bélgica extradición de Rafael Correa", May 29, 2022, <https://diariocorreo.com.ec/71285/nacional/contraloria-pedira-a-belgica-extradicion-de-rafael-correa>

⁶⁴ DW, "Belgium will dismiss extradition of Rafael Correa, says his defense," May 7, 2022, <https://www.dw.com/es/b%C3%A9lgica-desestimar%C3%A1-extradici%C3%B3n-de-rafael-correa-dice-su-defensa/a-61716250>

⁶⁵ La República, 'Diario "La Estrella de Panamá" habla de existencia de grave expediente contra Glas', 2 November 2016. Online: <https://www.larepublica.ec/blog/politica/2016/11/02/diario-estrella-panama-habla-existencia-grave-expediente-glas/>

El Comercio: Lenín Moreno: 'Lastimosamente ingeniero Jorge Glas, el dedo apunta cada vez más hacia usted', 4 August 2017. Online: <https://www.elcomercio.com/actualidad/leninmoreno-jorgeglas-guayaquil-carta-funciones.html>

El Universo " Pretrial detention for Jorge Glas, who accepts it 'under protest'," October 3, 2017. Online: <https://www.eluniverso.com/noticias/2017/10/03/nota/6412954/prision-preventiva-glas-quien-acepta-bajo-protesta>

⁶⁶ Lawfare Institute, "Expert opinion issued on occurrence of lawfare in Ecuador," October 18, 2018, <http://lawfareinstitute.com/expert-opinion-issued-on-occurrence-of-lawfare-in-ecuador/>

to build a case against former Brazilian president LULA DA SILVA for political purposes⁶⁷. Messages exchanged between the prosecutors in charge of the case against former President Lula and former judge Sergio Moro, who became Brazilian President BOLSONARO's Minister of Justice, have also been made public. The UN Human Rights Committee has recognized the violation of the presumption of innocence and the right to a fair trial and its implications for the exercise of the political rights of former Brazilian President Lula da Silva, falsely implicated in the "Lava Jato" case⁶⁸.

35. Former Vice President Jorge GLAS was also convicted in the "Bribery" case (see above), for which Belgium granted refugee status to Mr. CORREA DELGADO in view of the blatant injustice of the proceedings.

36. Jorge Glas is finally involved in a "Singue" case, related to the alleged illicit awarding of an oil contract.

This case has not yet been definitively resolved, but it should be noted that Ecuador has just lost before the International Arbitration Court against the company that won the contract⁶⁹.

37. Placed in pre-trial detention in October 2017, the former vice president was transferred in 2018 to a high-security prison where, in the face of constant threats against him, he had to live in isolation.

The situation was so dangerous that he obtained a provisional measure from the Inter-American Commission on Human Rights (IACHR) to guarantee the preservation of his life and health⁷⁰.

Despite Mr. Glas' serious health problems and the precautionary measures ordered by the IACHR, Ecuador has kept him, without justification, in solitary confinement in a high security prison where he did not receive adequate health care. The United Nations Working Group on Arbitrary Detention (WGAD) issued an opinion on September 9, 2021, stating "*65. The Working Group wishes to express its grave concern at the deteriorating health of Mr. Glas Espinel, as well as the dangerous conditions in which he is alleged to be detained. According to the source, Mr. Glas Espinel has received death threats during his detention at the Cotopaxi Social Rehabilitation Centre. In addition, other prisoners at the Centre have recently reportedly lost their lives as a result of violence inside the prison. The Working Group urges the Government of Ecuador to take immediate action to safeguard the safety and well-being of Mr.*

⁶⁷ Le Monde article, "Au Brésil, des révélations sur l'opération 'Lava Jato' ternissent encore l'image de la justice," July 18, 2019. Online: https://www.lemonde.fr/international/article/2019/07/18/de-nouvelles-revelations-sur-l-operation-lava-jato-ternissent-encore-l-image-de-la-justice-bresilienne_5490761_3210.html

⁶⁸ HRC, *Lula da Silva v. Brazil*, CCPR/C/134/D/2841, 27 March 2022, <https://tbinternet.ohchr.org/>

⁶⁹ El Universo, "Procuraduría planteará una acción de anulación al laudo arbitral que condenó a Ecuador a pagar \$ 11 millones a Gente Oil", June 9, 2022, <https://www.eluniverso.com/noticias/politica/procuraduria-planteara-una-accion-de-anulacion-al-laudo-arbitral-que-condeno-a-ecuador-a-pagar-11-millones-a-gente-oil-nota/>

⁷⁰ IACHR, *Jorge David Glas Espinel regarding Ecuador*, December 31, 2019, RESOLUTION 69/2019, Precautionary Measure No. 1581-18, available at: <https://www.oas.org/es/cidh/decisiones/pdf/2019/69-19MC1581-18-EC.pdf>

*Glas Espinel, including the granting of alternatives to detention, including early release or other non-custodial measures"*⁷¹ .

Therefore, a habeas corpus application was filed to obtain an alternative mode of execution of the sentence. A judge accepted this request on April 9, 2022. As soon as this decision was made public, the highest authorities - the president of the Republic, the president of the National Court, the state attorney general, the president of the Judiciary Council, the president of the National Assembly's Auditing Commission and the attorney general - interfered in the judicial process⁷² . So much so that the president of the Constitutional Court, on April 25, 2022, issued a video in which he stated that "*the public manifestations of the president of the National Court of Justice and the president of the Judiciary Council seem to disregard the Constitutional Court's own competencies, the jurisprudence on habeas corpus and the institution of binding precedent. Furthermore, they constitute a clear interference in the functions of the Constitutional Court, which we firmly and emphatically reject*"⁷³ .

The judge who granted the habeas corpus was suspended from his duties⁷⁴ . On May 20, 2022, the Court of Santa Elena ordered that Jorge Glas be located immediately and taken back to the Regional Prison of Cotopaxi, but also that the Prosecutor's Office investigate the actions of the judge and the officials of the National Service of Attention to Detainees who intervened in the first instance proceedings⁷⁵ .

⁷¹ WGAD, Opinion 39/2021, September 9, 2021, A/HRC/WGAD/2021/39

⁷² OFFICIAL COMMUNIQUE | In view of the judicial decision granting habeas corpus in favor of J. Glas, we express our rejection and legal disagreement, as well as our concern for the abuse of constitutional actions available in: <https://twitter.com/ComunicacionEc/status/1512971387018911749?s=20&t=LABLd4mASEyNBs8n4GY2g> #ATTENTION | In view of the habeas corpus request filed by the defense of Jorge Glas, on whom there are 2 enforceable sentences and a pending process (on appeal), #FiscalíaEc informs the citizenship (communiqué). <https://twitter.com/FiscaliaEcuador/status/1512949416621129730?s=20&t=LABLd4mASEyNBs8n4GY2g> #FiscalíaContraElDelito, available at: https://twitter.com/CJudicaturaEc/status/1513003124046409729?s=20&t=IkGSx5iT6wx5ppFL_fXJFQ The Judicature Council @CJudicaturaEc Apr 10 #ComunicadoCJ | The Judicature Council to the country <https://www.dw.com/es/ecuador-refuerza-vigilancia-de-exvicepresidente-por-temor-a-fuga/a-61442839>, available at <https://www.dw.com/es/ecuador-refuerza-vigilancia-de-exvicepresidente-por-temor-a-fuga/a-61442839> Ecuador reinforces surveillance of ex-vice president due to fear of flight, April 11, 2022, available at <https://www.youtube.com/watch?v=FGm2C4tShLo> Interview with Gen. (sp) Patricio Carrillo, Minister of the Interior in La Posta, April 12, 2022, available at <https://www.youtube.com/watch?v=eh176kM37fY> "Lasso: "I will never allow Ecuador to become a state under siege by drug trafficking gangs aided by corrupt or cowardly judges"", 24 April 2022, <https://srradio.com.ec/lasso-jamas-permitire-que-el-ecuador-se-convierta-en-un-estado-sitiado-por-bandas-de-narcotrafico-auxiliadas-por-jueces-corruptos-o-cobardes>

⁷³ The Constitutional Court of Ecuador to the media and the citizenry, April 24, 2022, available at <https://www.youtube.com/watch?v=eh176kM37fY>

⁷⁴ National Court of Justice requests suspension and investigations of judges who granted habeas corpus to Jorge Glas and the leader of Los Choneros, April 24, 2022, available at <https://www.eluniverso.com/noticias/politica/corte-nacional-de-justicia-pide-suspension-e-investigaciones-a-jueces-que-dieron-habeas-corpor-a-jorge-glas-y-al-lider-de-los-choneros-nota/>

⁷⁵ Expreso.ec, "Corte de Santa Elena ordena la localización y captura de Jorge Glas", May 20, 2022, <https://www.expreso.ec/actualidad/corte-santa-elena-ordena-localizacion-captura-jorge-glas-127853.html>

38. At the end of May 2022, given the seriousness of the situation, the IACHR decided to expedite the processing of the appeal filed by Jorge Glas in the "Odebrecht" case⁷⁶.

4. The case of Carlos OCHOA

39. Mr. Carlos Alberto OCHOA HERNANDEZ was superintendent of communications under the CORREA administration.

On January 24, 2019, the Prosecutor's Office filed charges for the crime of forgery and use of false document, but finally charged him as a perpetrator of the crime of ideological forgery⁷⁷.

The former official assured that in his case the presumption of innocence and due process have been flagrantly violated by the Prosecutor's Office. Mr. OCHOA HERNANDEZ has requested political asylum in Bolivia⁷⁸. Interpol, an institution designed to facilitate international criminal cooperation, refused to execute the red notice request issued by Ecuador⁷⁹.

5. Case of Fernando ALVARADO ESPINEL

40. Mr. ALVARADO ESPINEL was Minister of SECOM (Secretariat of Communication).

Mr. ALVARADO ESPINEL was accused of having entered into an employment contract for media coverage with a person who *a priori* was not qualified to perform this function. This contract had a duration of 8 months and provided for a monthly remuneration of 1,500 dollars. Mr. ALVARADO ESPINEL was charged solely in his capacity as head of the administration where the "unqualified" person had been hired.

Mr. ALVARADO ESPINEL was placed on an electronic bracelet, with a prohibition to leave the country. However, he fled the country because of the persecution he was suffering.

In October 2018, Ecuadorian authorities requested a red notice for an alleged misappropriation of funds by his administration. Interpol refused to issue the red notice requested by Ecuador⁸⁰.

⁷⁶ RadioPichincha, "CIDH acelera el proceso en Caso Glas por presuntas violaciones a sus derechos humanos", June 3, 2022, <https://www.pichinchacomunicaciones.com.ec/cidh-acelera-el-proceso-en-caso-glas-por-presuntas-violaciones-a-sus-derechos-humanos/>

⁷⁷ El Universo, "Exsuperintendente Carlos Ochoa es llamado a juicio por el delito de falsificación ideológica", March 20, 2019, <https://www.eluniverso.com/noticias/2019/03/20/nota/7242710/exsuperintendente-carlos-ochoa-es-llamado-juicio-delito/>

⁷⁸ Metro, "Sofía Espín and Carlos Ochoa are in Bolivia for political asylum," January 31, 2019, <https://www.metroecuador.com.ec/ec/noticias/2019/01/31/sofia-espino-carlos-ochoa-estao-bolivia-asilo-politico.html>

⁷⁹ El Universo, "Interpol denies red notice against exsuperintendent of Communication Carlos Ochoa," February 13, 2019, <https://www.eluniverso.com/noticias/2019/02/13/nota/7187066/interpol-niega-difusion-roja-contraxsuperintendente-comunicacion/>

⁸⁰ Your name does not appear on the Interpol wanted list (red notice) - <https://www.interpol.int/fr/Notre-action/Notices/Voir-les-notices-rouges>

In October 2020, a majority vote of the judges of the National Court of Justice (CNJ), before the inexistence of the crime of embezzlement, declared Alvarado's innocence. The then national judge and now president of the CNJ, Iván Saquicela, involved in the cases against former president CORREA and former vice-president GLAS, was the one who issued a different opinion, stating that the crime of embezzlement did exist.

The Prosecutor's Office appealed the majority decision. Despite the acquittal, the Prosecutor's Office also filed an appeal for Mr. ALVARADO ESPINEL to be sentenced for non-compliance with the precautionary measure ordered in 2018⁸¹. On November 10, 2020, the Ministry of Government published a photo of Fernando Alvarado Espinel on the country's "Most Wanted for Corruption" list⁸², despite the fact that there was no longer an arrest warrant.

6. Case of Vinicio ALVARADO

41. Vinicio ALVARADO was involved in the "Bribery" case, as well as former President CORREA and former Vice President GLAS.

On August 8, 2019, the Ecuadorian justice system requested Interpol to issue the red notice and proceed with the location and capture of the former secretary of the Administration, Vinicio Alvarado.

Interpol denied the Ecuadorian request. The international organization concluded that the request falls within the scope of Article 3 of its Constitution, and therefore it is not appropriate to approve it⁸³. This provision "*strictly prohibits (...) the Organization from any activity or intervention in questions or matters of a political, military, religious or racial nature.*"⁸⁴ Based on this article, Interpol indicated that the General Secretariat is not in a position to issue the red notice and that the information on Alvarado will be removed from the agency's databases.

7. The case of Walter SOLIS

42. Walter Solís was head of the National Water Secretariat (SENAGUA) and Minister of Public Works during Rafael Correa's administration.

He was charged in the "Bribery" case, as well as former President CORREA and former Vice President GLAS. On August 8, 2019, the Ecuadorian justice requested Interpol to publish the red notice and proceed to locate and capture Walter Solís. Interpol denied it.

⁸¹ El Universo, "Por el incumplimiento de decisiones legítimas de autoridad competente Fiscalía pide audiencia para formular cargos contra Fernando Alvarado", 17 November 2021.

⁸² Expreso.ec, "Fernando Alvarado, el más buscado en Ecuador por delitos de corrupción", November 10, 2020, <https://www.expreso.ec/actualidad/fernando-alvarado-buscado-ecuador-delitos-corrupcion-93336.html>

⁸³ Primicias.ec, "Interpol denies red notice request for Vinicio Alvarado", February 17, 2020, <https://www.primicias.ec/noticias/politica/interpol-niega-solicitud-difusion-roja-vinicio-alvarado/>

⁸⁴ Article 3, Interpol Constitution.

On January 4, 2021, a criminal court of Ecuador's National Court of Justice (CNJ) again sentenced W. SOLIS to eight years in prison, found him guilty of "peculation" or embezzlement of public funds⁸⁵.

Despite this double conviction⁸⁶, given the political profile and violations of the right to a fair trial, Interpol did not issue a red notice for him⁸⁷.

On January 26, 2022, following an urgent action filed by W. SOLIS, C VITERI, V. BONILLA and R ALVARADO, the UN Special Rapporteur on the independence of judges and lawyers expressed serious concerns to Ecuador regarding compliance with its international obligations in relation to the right of access to an independent and impartial judge and to a fair trial⁸⁸.

8. Case of Ricardo Armando PATINO

43. Mr. PATINO was Minister of Foreign Affairs under the CORREA government.

At the end of October 2018, meeting with militants of the so-called 'citizen revolution', Patiño harangued in Latacunga: *"It is necessary to go on the offensive. We change the strategies of passive and organized resistance to combative resistance"*. He was prosecuted for the crime of "incitement to commit a crime" for having called members of the opposition to undertake a "combative resistance with peaceful means" in order to reject government policies and demand the release of the former Vice President of the Republic, Jorge GLAS⁸⁹.

A judge ordered on April 18th, 2019, the preventive detention of Ricardo Patiño, for his alleged participation in the crime of instigation and requested the red notice to Interpol⁹⁰. Mr. PATINO, then leader of the opposition political party filed an appeal before Interpol⁹¹, which once again refused to meet the Ecuadorian request.

⁸⁵ DW, "Ecuador: Walter Solis sentenced to jail for embezzlement," January 5, 2021, <https://www.dw.com/es/ecuador-walter-solis-condenado-a-la-c%C3%A1rcel-por-malversaci%C3%B3n/a-56129491>

⁸⁶ The Telegraph, "Dos juicios, prisión y extradición afronta Walter S.", March 10, 2020, <https://www.eltelegrafo.com.ec/noticias/judicial/12/walter-solis-caso-sobornos>

⁸⁷ Your name does not appear on the Interpol wanted list (red notice) - <https://www.interpol.int/fr/Notre-action/Notices/Voir-les-notices-rouges>

⁸⁸ REIMA, Appeal of January 26, 2022, AL ECU 1/2022, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26981>

⁸⁹ La República "Patino calls for "combative resistance" against Moreno's government", 28 octubre 2018, <https://www.larepublica.ec/blog/politica/2018/10/28/patino-llama-resistencia-combativa-contra-gobierno-moreno/>

⁹⁰ El Comercio, "Ricardo Patiño es prófugo de la Justicia; juez ordena su prisión y solicita su ubicación internacional a Interpol", 18 April 2019, <https://www.elcomercio.com/actualidad/prision-ricardo-patino-interpol-profugo.html>

⁹¹ El Universo, "Ricardo Patino espera que la Interpol deseche de difusión roja en su contra", 22 abril 2019. En ligne : <https://www.eluniverso.com/noticias/2019/04/22/nota/7297289/patino-espera-que-interpol-deseche-pedido-difusion-roja-su-contra>

9. Alexis MERA Case

44. Alexis Javier Mera Giler, former Legal Secretary of the Presidency of the Republic of Rafael Correa (2007-2017) was involved in the Bribery case.

He is currently serving a sentence in the Ambato prison. Former judge Edgar Flores one of the magistrates who integrated the Court that in July 2019 resolved the appeal of the sentence, stated on the afternoon of Thursday, August 4, 2022, during his appearance in the process of political trial against the Judiciary Council (CJ): *"The former legal secretary of the Presidency, Alexis Mera, should have been released immediately when the preventive detention order was lifted against him for the crime of extortion, within the Green Rice (Bribes) case; however the National Court of Justice (CNJ) issued alternative measures "to avoid a scandal"*⁹².

10. Case of Maria DUARTE

45. María de los Ángeles Duarte, former minister of the Citizen Revolution (2007-2017) was involved in the "Bribes" case.

As for former president CORREA, she condemns that due process has not been complied with, that several legal principles have been violated in a case in which she should not even have been called to trial. She also accuses the media lynching and expressed that everything that is happening was to prevent Correa or someone of his entourage to participate in the electoral process⁹³.

María DUARTE took refuge in the Argentine Embassy in Quito, where she has been living with her son for more than two years as a humanitarian guest. In March 2022, Interpol again refused to issue the red notice requested by Ecuador⁹⁴. In view of the prolonged *de facto* detention of the former minister and her son, several NGOs have requested that she be formally granted diplomatic asylum⁹⁵.

11. Julian ASSANGE's case

⁹² El Universo, "'Alexis Mera was to be released, but alternative measures were dictated to avoid a scandal', revealed Édgar Flores, ex-judge of the National Court of Justice", August 4, 2022, <https://www.eluniverso.com/noticias/politica/edgar-flores-exjuez-de-la-corte-nacional-de-justicia-revelo-que-alexis-mera-debia-ser-liberado-pero-se-dictaron-medidas-alternativas-para-evitar-un-escandalo-nota/>

⁹³ Confirmado.net, "María Duarte.- 'Hemos sufrido linchamiento mediático que antes se penaba y ahora es normal'", February 18, 2020, <https://confirmado.net/2020/02/18/maria-duarte-hemos-sufrido-linchamiento-mediatico-que-antes-se-penaba-y-ahora-es-normal/>

⁹⁴ Confirmado.net, "Interpol denies red notice against María de los Ángeles Duarte, former minister of Rafael Correa," March 9, 2022, <https://confirmado.net/2022/03/09/interpol-niega-difusion-roja-contra-maria-de-los-angeles-duarte-ex-ministra-de-rafael-correa/>

⁹⁵ La República, "ONGs piden a Argentina dar asilo a exministra María de los Ángeles Duarte", 18 April 2022, <https://www.larepublica.ec/blog/2022/04/18/ongs-piden-a-argentina-dar-asilo-a-exministra-maria-de-los-angeles-duarte/>

46. Julian Assange is an Australian journalist, activist and founder of WikiLeaks⁹⁶. His life has been dedicated to working for the right to freedom of the press and access to citizen information, with a social, political or protest purpose⁹⁷.

Assange published through the WikiLeaks platform information of public interest on cases such as bank corruption in Switzerland or Iceland, extrajudicial executions in Kenya, environmental crimes in the Ivory Coast, Internet censorship in China, or relevant information from other countries such as Saudi Arabia or Russia. Similarly, WikiLeaks published documents proving human rights violations and war crimes committed by the U.S. Army in Iraq and Afghanistan, as well as public documents relating to torture in Guantanamo.

As a result of the dissemination of information on serious violations committed by U.S. authorities, Assange was charged with 18 counts, 17 of which are framed under the *Espionage Act* of 1919, thus initiating a whole persecution from the United States against a journalist for the simple fact of publishing truthful information that proves the execution of very serious crimes. In view of this situation, Assange requested asylum before the Ecuadorian authorities, which was granted on August 16, 2012, during the government of Rafael Correa. The asylum was requested at the Ecuadorian Embassy in London.

During the time Assange remained in the diplomatic mission, multiple human rights organizations intervened and demanded his freedom, such as the Working Group on Arbitrary Detention of the UN Human Rights Council, which condemned Sweden, the United Kingdom and the other countries involved for keeping the journalist in a situation of detention contrary to international law⁹⁸. However, the Government of Lenín Moreno, in Ecuador, violating the principle of non-refoulement of any refugee that the Inter-American Commission on Human Rights itself had reminded him of, withdrew his asylum status on April 11, 2019, suspended the Ecuadorian citizenship to which he had acceded, and allowed the British Metropolitan Police access to the diplomatic mission to arrest the founder of WikiLeaks⁹⁹.

⁹⁶ WikiLeaks is a news portal that has been publishing documents of public interest from anonymous sources since 2006. The platform designed a system of IP firewalls to prevent anyone, not even the news platform itself, from identifying the *whistleblowers* who submitted the documents. Thanks to the information published by WikiLeaks, multiple human rights violations around the world have been revealed.

⁹⁷ <https://www.cndh.org.mx/index.php/noticia/el-gobierno-de-ecuador-concede-asilo-politico-julian-assange-fundador-de-wikileaks>

⁹⁸ Le Monde, Un groupe de travail de l'ONU estime que Julian Assange a été "détenu arbitrairement", 5 février 2016, https://www.lemonde.fr/pixels/article/2016/02/05/julian-assange-a-ete-detenu-arbitrairement-par-la-suede-et-la-grande-bretagne-estime-l-onu_4859913_4408996.html

Special Rapporteur on the right to privacy, 18 April 2019, AL ECU 6/2019, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24557> ;

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 18 April 2019, AL ECU 5/2019,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24556>;

All UN decisions on the J. Assange case can be found on this site: <https://spcommreports.ohchr.org/TmSearch/>

⁹⁹ <https://www.bbc.com/mundo/noticias-internacional-47902652>

It was then that the United States revealed what was already known, that there was a secret case against him in the Eastern District of Virginia, United States, formally requesting his extradition. Since then, Assange has been held in provisional detention in Belmarsh, a maximum-security prison known as "Britain's Guantanamo Bay". His legal team is currently fighting to prevent his extradition to the United States.

47. Julian ASSANGE's case differs somewhat from the other cases described in this chapter. However, it is relevant in the sense that his refugee status, and consequently his nationality, was withdrawn in violation of the right to a fair trial and an effective remedy, to satisfy the political interests of the government of Lenín Moreno, which has taken a clear turn in favour of the United States of America.

In its advisory opinion of May 30, 2018, the Inter-American Court of Human Rights had unanimously concluded that:

"The right to seek and receive asylum in the framework of the Inter-American system is configured as a human right to seek and receive international protection in foreign territory, including with this expression the status of refugee according to the relevant United Nations instruments or the corresponding national laws, and territorial asylum according to the various Inter-American conventions on the matter.

(...)

The principle of non-refoulement is enforceable by any foreign person, including those seeking international protection, over whom the State in question is exercising authority or who is under its effective control, regardless of whether he or she is in the land, river, maritime or air territory of the State.

(...)

The principle of non-refoulement not only requires that the person not be returned, but also imposes positive obligations on States".¹⁰⁰

However, Julian ASSANGE's fundamental rights have been grossly violated by Ecuador. In an interpellation on October 2, 2019, the UN Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment noted the numerous violations of Julian ASSANGE's human rights by the government of Lenin MORENO:

"Given that your Excellency's Government has provided no credible evidence for the existence, on 11 April 2019, of a medical emergency, imminent security threat or other temporary need to terminate Mr. Assange's asylum, which he had been in since 2012, and given the very serious risks to the human rights of Mr. Assange in the in the event of his extradition to the United States, it does not appear convincing and plausible that

¹⁰⁰ IADH Court, Advisory Opinion OC-25/18 of May 30, 2018 requested by the Republic of Ecuador, <https://www.refworld.org/es/pdfid/5b48db9a4.pdf>

it would have been impossible or unreasonable for your Excellency's Government to allow my mandate to conduct an on-site visit to Mr. Assange before removing him from the Embassy.

(...)

Indeed, since his arrest by British police on April 11, 2019, concerns have been proven correct by the repeated and ongoing violations of his fair trial rights in the British criminal and extradition proceedings conducted against him

(...)

For the same reasons, the assurances given by the United Kingdom to His Excellency's Government that Mr. Assange would not be extradited to a country where he might face the death penalty or face torture, or ill-treatment lack the credibility and reliability necessary for Mr. Assange's removal to the United Kingdom to be permissible under international law. As this mandate has consistently observed diplomatic assurances have proven incapable of providing the protection required under the peremptory principle of non-refoulement

(...)

In summary, it is my considered opinion that, at least since March 2018, the primary factors, stemming from the responsibility of the Ecuadorian authorities, cumulatively and continuously inflicted severe mental and emotional suffering on Mr. Assange, thus producing the medical symptoms typical of victims of psychological torture

(...)

In sum, while there may be situations in which diplomatic asylum may be lawfully terminated, the rule of law requires that any such decision be made in a regular proceeding subject to due process of law, including the possibility for the affected person to present and appeal to a judicial authority. Moreover, none of the circumstances raised by your Excellency's Government appear to have created a situation of such gravity or urgency as to justify or require the termination of Mr. Assange's diplomatic asylum. The prohibition of non-refoulement in the face of a real risk of torture, being absolute, non-derogable and peremptory, overrides any other consideration

(...)

As accurately determined by the WGAD in its decision of 4 December 2015, in light of these risks, Mr. Assange's presence at the Ecuadorian Embassy could not at any time be considered voluntary, but amounted to arbitrary confinement, although admittedly not attributable to Ecuador, but to Sweden and the United Kingdom. I also acknowledge that the initial five years of years of cohabitation between Mr. Assange and the staff of the Ecuadorian Embassy from June 2012 to May 2017 appear to have been marked by respectful and friendly relations.

However, following the election of the current Ecuadorian government in 2017, the Ecuadorian authorities have reportedly begun to deliberately create and maintain circumstances that make Mr. Assange's living conditions increasingly difficult and oppressive.

(...)

*These findings by the undersigned mandate holder and two independent medical experts experienced and specialized in examining torture victims provide "reasonable grounds to believe" that Ecuadorian officials have contributed to Mr. Assange's psychological torture. As a matter of international law, therefore, Your Excellency's Government does not have the discretion to simply refute of refute these findings but has a clear and unequivocal obligation to conduct a prompt and impartial investigation into these allegations."*¹⁰¹ .

12. Ola BINI case

48. Ola Bini is a Swedish software developer, programmer, and Internet activist. He works for the Centre for Digital Autonomy on privacy, security and cryptography issues¹⁰² .

Dedicated to promoting the use of free software, he has been domiciled in Ecuador since 2013.

For allegedly being linked to Julian Assange, WikiLeaks and Correismo¹⁰³ was detained and arrested at Quito airport as he was preparing to board a flight to Japan on April 11, 2019¹⁰⁴ . This follows the detention of the WikiLeaks founder at the Ecuadorian Embassy in London. Within the arraignment hearing, Interior Minister María Paula Romo pointed to Bini as a suspect of participating in a plot to destabilize Moreno's government¹⁰⁵ .

On May 11, 2019, the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur for Freedom of Expression Inter-American Commission on Human Rights of the Organization of American States sent a letter to the Ecuadorian government:

¹⁰¹ Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 2 October 2019, AL ECU 15/2019, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24861>

¹⁰² The Center for Digital Autonomy, a non-profit organization incorporated in Ecuador and Spain "for the purpose of making the Internet a safer place for everyone," of which he is technical director, released a statement⁷ detailing his contributions and noting that he had been ranked by Computerworld as Sweden's #6 developer (in 2008), and that he "created two programming languages" and is "a long-time activist for free software, privacy and transparency." The statement listed his contributions to loke, Seph, JesCov, JRuby, JtestR, Yecht, JvYAMLb, JvYAML-gem, RbYAML, Costillas, ActiveRecord-JDBC, Jatha, Xample and JOpenSSL. <https://autonomia.digital/2019/04/12/ola-bini-arrest.html>

¹⁰³ Expreso.ec, "El paso de Ola Bini por Ecuador", 12 April 2019, <https://web.archive.org/web/20190412234313/https://www.expreso.ec/ciencia-y-tecnologia/olabini-informatica-casoassange-telecomunicaciones-GE2754118>

¹⁰⁴ Infobae, "A collaborator of Julian Assange was arrested while trying to leave Ecuador bound for Japan," 11 April 2019, <https://www.infobae.com/americamundo/2019/04/11/un-colaborador-de-julian-assange-fue-detenido-al-intentar-salir-de-ecuador-rumbo-a-japon/>

¹⁰⁵ La Republica, " Arraignment hearing against Swede fingered as close to Assange," 12 April 2019, <https://www.larepublica.ec/blog/2019/04/12/audiencia-de-formulacion-de-cargos-contra-sueco-senalado-como-cercano-a-assange/>

"We would like to express our dismay, particularly, because the arrest and charges against Mr. Bini appear to be connected to his public support and friendship with Julian Assange, as well as his work and activism in the area of privacy (...).

express our concern about the circumstances surrounding the arrest and detention of Mr. Bini (...)

we recall that any person detained must be informed, at the time of arrest, of the reasons for his detention, and notified, without delay, of the charge against him, in accordance with Articles 9 (2) of the ICCPR and 7 (4) of the ACHR. The authorities must provide sufficient information to enable the person to challenge the reasons for detention (...).

Finally, we refer to the allegation that Mr. Bini was detained in an unofficial place of detention on April 11, and that he was repeatedly denied access to his lawyers. On this point, we express our concern about the alleged lack of safeguards to prevent rights violations"¹⁰⁶ .

On July 26, 2019, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur for Freedom of Expression Inter-American Commission on Human Rights of the Organization of American States again questioned the Ecuadorian government:

"Despite noting the release of Mr. Ola Bini from prison, we still remain concerned about the ongoing investigations and criminal proceedings against him, given the lack of information we observe as to the reasons that may underlie these proceedings (...).

Although the aforementioned evidence could qualify for Mr. Bini's preventive detention under Ecuadorian domestic law, no response has been given regarding the legal or factual basis for the accusations against him, for which reason we would like to remind your Excellency's government of its obligations under the International Covenant on Civil and Political Rights"¹⁰⁷ .

The Observation Mission that has been monitoring Bini's case for the past few years and which includes Ecuadorian and international civil society organizations such as Access Now, Article 19, Electronic Frontier Foundation (EFF), the Free Software Association of Ecuador (ASLE), Brazil de Fato, Karisma Foundation, Indymedia Ecuador, and others has delivered its report on

¹⁰⁶ Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur for Freedom of Expression Inter-American Commission on Human Rights of the Organization of American States, interpelacion del 11 de Mayo 2019, UA ECU 7/2019, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24566>

¹⁰⁷ Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur for Freedom of Expression Inter-American Commission on Human Rights of the Organization of American States, interpelacion of July 26, 2019, UA ECU 12/2019, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24774>

May 2022¹⁰⁸. The report recalls that at the time of his arrest, Bini was imprisoned without charges being filed against him, and the then president of Ecuador, Lenín Moreno, went so far as to claim that the activist may have attempted to interfere in the U.S. elections¹⁰⁹. After 70 days in jail, Bini was released, but the judicial process against him continues. Bini is banned from leaving Ecuador and his bank accounts have been frozen. The report also explains that Fabian Hurtado, an expert witness in Bini's case who prepared a report on the prosecution's charges against Bini, has been charged with obstruction of justice and his home was the subject of a police search operation. Amnesty International says Hurtado, who worked for Bini's defence, had his electronic equipment violently confiscated and that the police action was an "intimidating" act that undermines the digital rights activist's defence¹¹⁰. Human rights organizations claim that the Swedish programmer is the target of a campaign of judicial harassment. The prosecution is relying on Article 234 of the Penal Code to charge Bini with the crime of non-consensual access to a computer, telematic or communications system. The penalty is three to five years in prison. His defence is seeking to have the case dismissed. After years of postponements, Bini's trial was scheduled to resume on May 16, 2022, but there is still no sentence.

Despite this long period of time since his arrest and the obligation to try people within a reasonable time, Ola Bini is still under a ban on leaving the country and is under constant surveillance.

13. Diplomatic asylum after the October 2019 "protests".

49. After the persecution of the leaders of the social protest of October 2019 (see below), seven 'correístas' decided to take refuge in the Mexican embassy, where they were granted diplomatic asylum and then a safe-conduct to flee Ecuador¹¹¹.

14. The use of the judiciary to pressure the legislature

50. The 2021 presidential elections brought Guillermo LASSO to power.

¹⁰⁸ Access Now, Article 19, Electronic Frontier Foundation (EFF), the Free Software Association of Ecuador (ASLE), Brasil de Fato, Karisma Foundation, Indymedia Ecuador, and others, "Informe de un proceso paradigmático para los derechos humanos en la era digital: El caso Ola Bini", May 2022, https://www.eff.org/files/2022/05/09/final_report_ola_bini_case_in_spanish_informe_final_caso_ola_bini_en_espanol.pdf

¹⁰⁹ See also, Amnesty International, "Équateur, Ingérence dans la procédure pénale contre Ola Bini," 26 août 2019, <https://www.amnesty.be/infos/actualites/equateur-ingerence-ola-bini>
Amnesty International, "Le droit d'Ola Bini à un procès équitable menacé," 6 septembre 2019, <https://www.amnesty.be/infos/actualites/article/equateur-droit-bini-proces-equitable-menace>

¹¹⁰ Amnesty International, "Équateur. Une violente descente de police menace le droit d'Ola Bini à un procès équitable", 6 septembre 2019, <https://www.amnesty.org/fr/latest/press-release/2019/09/ecuador-allanamiento-violento-pone-en-riesgo-juicio-justo-ola-bini/>

Amnesty International, "Équateur. Les autorités doivent surveiller le procès contre le défenseur des droits numériques Ola Bini", 3 mars 2020, <https://www.amnesty.org/fr/latest/news/2020/03/ecuador-authorities-must-monitor-trial-digital-defender-ola-bini/>

¹¹¹ CNN, "Militantes correístas asilados en embajada viajan a México", January 9, <https://cnnspanol.cnn.com/2020/01/09/alerta-militantes-correistas-asilados-en-embajada-viajan-a-mexico/>

Although he has been elected president, his party has only 11 seats out of 137 in the National Assembly. The National Assembly elected Guadalupe LLORI, from another political party, as president.

However, several incidents led her peers to create a commission to determine whether Ms. LLORI respected the law and her competencies. This process is, of course, highly political.

51. Ms. LLORI was seconded by Chairman LASSO¹¹².

Ms. LLORI and some parliamentarians tried to prevent the normal development of the parliamentary activity. They filed several appeals to prevent her dismissal and/or to obtain precautionary measures to interrupt the evaluation process decided by the plenary of the National Assembly¹¹³.

The Prosecutor General has opened an investigation against 93 deputies¹¹⁴.

On May 31, 2022, Ecuador's National Assembly finally removed its president, Guadalupe Llori, from office for failing to perform her duties and for allowing the chamber to fall into disrepute¹¹⁵.

52. This episode is evidence of another attempt to use justice as a political weapon.

III. Violation of the right to form a political party of the most important political force in the country and lawfare within the electoral system.

53. One of the founding elements of any democracy is the possibility for citizens to organize themselves into political parties, so that they can bring their economic, social and ideological sensibilities to bear on the governance of the country.

54. Rafael CORREA DELGADO was one of the historical founders of the political party Alianza País, a political party founded in April 2006 from the alliance of several leftist parties.

¹¹² El Universo, "Lasso announces support to Guadalupe Llori to avoid her dismissal", May 29, 2022, <https://www.ecuadorenvivo.com/index.php/politica/item/143516-lasso-anuncia-el-respaldo-a-guadalupe-llori-para-evitar-su-destitucion>

¹¹³ El Comercio, "Juzgado acepta medidas cautelares y frena proceso de destitución de Llori", May 27, 2022, <https://www.elcomercio.com/actualidad/politica/juzgado-medida-cautelar-frena-destitucion-guadalupe-llori.html>
Primicias, "Asamblea: Nuevas medidas cautelares buscan salvar a Llori de la remoción", 24 May 2022, <https://www.primicias.ec/noticias/politica/nuevas-medidas-cautelares-salvar-llori-remocion/>

¹¹⁴ El Comercio, "Fiscal Salazar defiende investigación contra 93 asambleístas denunciados por Llori", May 7, 2022, <https://www.elcomercio.com/actualidad/seguridad/fiscal-salazar-investigacion-asambleistas-denuncia-llori.html>

¹¹⁵ DW, "Ecuador's National Assembly ousts Guadalupe Llori," June 1, 2022, <https://www.dw.com/es/asamblea-nacional-de-ecuador-destituye-a-guadalupe-llori/a-61992607>

Rafael CORREA DELGADO ran for election, with Lenín MORENO as his vice-presidential candidate, in 2006. After winning that election, Mr. CORREA DELGADO was re-elected consecutively.

In 2017, Mr. CORREA DELGADO announced his decision not to run for re-election after his two terms and proposed his former vice president, Lenín MORENO, to succeed him.

However, the liberal turn given by Lenín Moreno after his victory in 2017 caused a split within the Alianza País party. As a result, supporters of the Citizen Revolution movement attempted to create a new political party. This was prevented.

55. The public authorities, and more specifically the National Electoral Council (hereinafter "CNE"), remodelled after the arrival of the CPCCS-T, systematically and arbitrarily denied any attempt by the "correístas" to form a new political movement:

- On December 29, 2017, the Correístas presented the formal conditions to request permission to initiate the process of creation of the "Revolución Ciudadana" party. On January 23, 2018, the CNE denied the authorization to initiate the process of creation of this party, arguing that the name "Revolución Ciudadana" was the slogan that identified Movimiento *Alianza País*. The CNE also justified its refusal arguing that on December 13, 2017, a request had been made by a person close to the then Executive Secretary of Alianza País to reserve the name "Partido de la Revolución Ciudadana"¹¹⁶.

- On March 6, 2018, in a new attempt to achieve legal recognition of their party, the Correístas filed a request before the CNE to initiate the process of legalization of the party "Movimiento de la Revolución Alfarista: Hacia un–Nuevo Polo Ciudadano" (Movement of the Alfarista Revolution: Towards a New Citizen Pole). On April 5, 2018, the CNE again rejected the request, this time arguing that the name "Alfarista" could not be granted to an organization that claims to be leftist and socialist, since Alfaro, according to the CNE, would be a person linked to political liberalism. The appeals against this refusal have all remained without effect¹¹⁷.

56. Faced with these repeated blockades, the activists of the citizen revolution contacted a political movement that was already accredited, the Movimiento Acuerdo Nacional (hereinafter MANA).

¹¹⁶ Colectivo de Abogados por la Democracia, "Judicialización de la política y bloqueo político: El caso del "proceso" de la Revolución Ciudadana en Ecuador", pp. 14-15. <http://economiaenbicicleta.com/wp-content/uploads/2018/09/Judicializaci%2n-de-la-Pol%Altica.pdf>

¹¹⁷ Colectivo de Abogados por la Democracia, "Judicialización de la política y bloqueo político: El caso del "proceso" de la Revolución Ciudadana en Ecuador", pp. 15-17. <http://economiaenbicicleta.com/wp-content/uploads/2018/09/Judicializaci%2n-de-la-Pol%Altica.pdf>

Mr. Juan Pablo Arévalo was, in this context, designated as legally responsible for the collection of citizens' signatures on behalf of this movement in order to be able to run in the 2019 local elections. In a few months, 462,000 signatures were collected. These signatures were to be submitted to the CNE. The former representative of MANA, who had resigned on May 4, 2017, then suddenly announced the expulsion from the movement of Mr. Rafael CORREA DELGADO and nine others. The CNE refused to recognize the capacity of Juan Pablo Arevalo to act on behalf of MANA.

Thus, the alliance with the MANA party¹¹⁸ was avoided.

Supporters of the citizen revolution finally managed, *in extremis*, to run in the local elections of March 24, 2019, through the political movement 'Compromiso Social Listas 5' (FCS). Despite the evident lack of communication to the population about this participation, List 5 won the elections in two highly populated provinces of Ecuador, Pichincha and Manabí, and came second in the most populated province of the country, Guayas¹¹⁹.

57. Therefore, the FCS positioned itself favourably for the February 2021 presidential and parliamentary elections.

Suddenly, despite his previous participations, he came under attack by the Office of the State Comptroller General. In August 2019, the Comptroller's Office issued a report stating that some parties, including Fuerza Compromiso Social, did not meet the legal requirement to participate in the elections. The plenary of the National Electoral Council (hereinafter CNE) dismissed said report¹²⁰. Despite this decision, on June 19, 2020, the Comptroller General of the State issued a press release stating, once again, that the FCS would not have complied with the legal requirements to be able to run in the elections. The CNE members were subjected to extreme pressure, threatened with fines and dismissal¹²¹. No one dared to oppose the request for the suppression of the four political parties, including Fuerza Compromiso Social¹²². The party could not run in the 2021 general elections¹²³.

¹¹⁸ NotiMundo, "Correístas suspend delivery of signatures to the CNE due to controversy with MANA faction", August 9, 2018, <https://notimundo.com.ec/correistas-suspenden-entrega-de-firmas-al-cne-por-controversia-con-faccion-de-mana/>

El Comercio, "El CNE deja sin posibilidades de participación a la facción correísta del movimiento MANA", 23 August 2018, <https://www.elcomercio.com/actualidad/cne-mana-participacion-faccion-correista.html>

¹¹⁹ Telesur, "Ecuador's CNE publishes sectional election results," March 26, 2019, <https://www.telesurtv.net/news/Correismo-se-consolida-como-primera-fuerza-electoral-en-Ecuador-20190326-0007.html>

¹²⁰ El Comercio, "Fuerza Compromiso Social, movimiento del correísmo, podrá presentar candidatos para las elecciones del 2021", January 3, 2020, available at <https://www.elcomercio.com/actualidad/fuerza-compromiso-social-correismo-elecciones.html>

¹²¹ Expresso.ec, "El contralor Pablo Celi se enfrenta a la justicia electoral", July 12, 2020, available at <https://www.expresso.ec/actualidad/contralor-pablo-celi-enfrenta-justicia-electoral-15585.html>

¹²² El Comercio, "Suspension of four groups will be the defense of CNE councilors," July 21, 2020, available at <https://www.elcomercio.com/actualidad/suspension-consejeros-cne-partidos-politicos.html>

¹²³ El Universo.com, "TCE niega recurso a Fuerza Compromiso Social a resultados de la segunda vuelta", May 5, 2021, online: <https://www.eluniverso.com/noticias/politica/tce-niega-recurso-a-fuerza-compromiso-social-a-resultados-de-la-segunda-vuelta-nota/>

During this process, the Secretary General of the Cabinet of the President of Ecuador, Juan Sebastián ROLDÁN, also made this thinly veiled threat:

*"It is a good risk to be a correísta candidate because justice will focus its eyes on those who are not yet fugitives or convicted. There are few left"*¹²⁴ .

In relation to these presidential and parliamentary elections, on October 5, 2020, the European Parliament asks a question addressed to the Vice-President of the Commission and High Representative of the European Union for Foreign Affairs and Security Policy Commission and High Representative of the European Union for Foreign Affairs and Security Policy, on the subject, underlining that *"a number of political parties, including the party backed by former President Rafael Correa, have been prevented from standing, [and] have complained that the government has placed legal obstacles in the way of the electoral process to prevent fair elections"*¹²⁵ .

58. Faced with the attacks and the scenario of the possible elimination of the FCS, on July 8, 2020, the Revolución Ciudadana decided to form an alliance with the Movimiento Centro Democrático Listas 1, which was called UNES, Unión por la Esperanza (Union for Hope).

The UNES list was finally able to run in the elections, without being able to include any of its historical leaders, due to the lawfare against them, which prevents them from participating against them, which prevents them from participating.

During the 2021 election campaign, the lawfare continued, with authorities claiming that supporters of the "Citizens' Revolution" were criminals linked to the drug cartel. Former President Lenin Moreno accused Andres Arauz and Rafael Correa of being linked to Colombian drug trafficking¹²⁶. Electoral and judicial authorities seconded the outgoing president's accusations¹²⁷.

¹²⁴ Tweet, "Roldán speaks of imprisoning Correísmo candidates," August 8, 2020.

See "Juan Sebastián Roldán amenaza a "candidatos del correísmo" y dice que la justicia pondrá "los ojos sobre ellos", August 7, 2020, available at <http://www.pichinchacomunicaciones.com.ec/juan-sebastian-roldan-amenaza-a-candidatos-del-correismo-y-dice-que-la-justicia-pondra-los-ojos-sobre-ellos/>

¹²⁵ https://www.europarl.europa.eu/doceo/document/E-9-2020-005442_EN.html (free translation).

¹²⁶ Europa press.es, "Moreno to request information from Colombia on alleged financing of Arauz campaign by ELN", 2 February 2021, <https://www.europapress.es/internacional/noticia-moreno-pedira-informacion-colombia-presunta-financiacion-campana-arauz-parte-eln-20210202120111.html>

¹²⁷ El Universo, "Tribunal Contencioso desecha denuncia de campana contra Andrés Arauz por pruebas de COVID-19; Fiscalía pide información a Colombia sobre supuestos aportes del ELN", 12 February 2021, <https://www.eluniverso.com/noticias/politica/tribunal-contencioso-desecha-denuncia-de-campana-contra-andres-arauz-fiscalia-pide-informacion-a-colombia-sobre-supuestos-aportes-del-eln-nota/>

However, the ARAUZ-RABASCALL duo won the first round of the presidential election with 32% of the vote¹²⁸.

During the campaign for the second round of the presidential elections, the attorney general, who was a political appointee to her post (see above), officially invited the Colombian Prosecutor's Office to a high-profile judicial cooperation for the alleged financing of the campaign of the correista candidate, Andrés ARAUZ, by the ELN¹²⁹. The attorney general even issued a TV spot with the Colombian prosecutor¹³⁰, despite the fact that the cooperation was only being carried out in the framework of a preliminary investigation, which was dropped after the elections.

Faced with this "intervention" of the judiciary in the electoral campaign, the UN Special Rapporteur on the independence of judges and lawyers, Diego García-Sayán, expressed his concern about the judicial harassment of the progressive candidate, Andrés ARAUZ¹³¹. On March 2, 2021, UN Secretary General Antonio GUTERRES called on "*all stakeholders to act responsibly and in accordance with institutional and legal frameworks in the run-up to the April 11 presidential runoff elections*"¹³².

"Agency France Presse" (AFP) also identified the use of "*fake news*" aimed at discrediting Andrés ARAUZ and raising fears for the country's economic future¹³³.

¹²⁸ BBC article, "Ecuador election goes into run-off with Arauz in the lead", February 8, 2021, available at <https://www.bbc.com/news/world-latin-america-55934856>

¹²⁹ Primicias, "Fiscalía pide asistencia a Colombia sobre supuesto aporte del ELN a Andrés Arauz," February 9, 2021, available at <https://www.primicias.ec/noticias/politica/fiscalia-asistencia-colombia-aportes-eln-andres-arauz/>

La Hora, "Fiscal de Colombia viaja a Ecuador por posible financiación del ELN a candidato correista", February 12, 2021, available at <https://lahora.com.ec/noticia/1102340580/fiscal-de-colombia-viaja-a-ecuador-por-posible-financiamiento-del-eln-a-candidato-correista> - (free translation)

Semana, "El viaje del fiscal Barbosa a Ecuador y los informes que entregó sobre el candidato de Rafael Correa," April 11, 2021, available at <https://www.semana.com/nacion/articulo/el-viaje-del-fiscal-barbosa-a-ecuador-y-los-informes-que-entrego-sobre-el-candidato-de-rafael-correa/202124/>

¹³⁰ "#ATTENTION. | #prosecutorEc y @FiscaliaCol meet for the delivery of information found in the devices of alias 'Uriel', of the ELN, in the framework of criminal cooperation between both countries." - Tweet from the Ecuadorian Prosecutor's Office, February 12, 2021, available at <https://twitter.com/FiscaliaEcuador/status/1360359986992467972>

"I thank @FiscaliaCol and your Attorney General for having accepted the request for information that you have delivered to us today. It is a very important exercise in the fight against criminality, we are together and this is how we will fight it." @DianaSalazarM2" - Tweet from Ecuador's Attorney General's Office; February 13, 2021, available at <https://twitter.com/FiscaliaEcuador/status/1360363112688402434>

¹³¹ Confirmado.net, "Diego Garcia-Sayan-UN Special Rapporteur: Ecuador judges and prosecutors should not interfere, directly and indirectly, in the tasks of electoral bodies and processes," March 4, 2021, <https://confirmado.net/2021/03/04/diego-garcia-sayan-relator-especial-de-la-onu-ecuador-los-jueces-y-fiscales-no-deben-interferir-de-manera-directa-e-indirecta-en-las-tareas-de-organos-y-procesos-electorales/>

¹³² UN, "Secretary-General Welcomes Peaceful Elections in Ecuador", 2 March 2021, SG/SM/20611, available at <https://www.un.org/press/en/2021/sgsm20611.doc.htm>

¹³³ For example:

AFP, "No record of Maduro sending 'revolutionary hug' to Andres Arauz," April 11, 2021, available at <https://factual.afp.com/no-hay-registro-de-que-maduro-haya-enviado-un-abrazo-revolucionario-andres-arauz>

59. The repeated interventions of the authorities arbitrarily using their power to prevent the participation of candidates, the creation of a party, the consolidation of an electoral alliance, to intimidate candidates or to continuously tarnish the reputation of UNES candidates, constitutes a serious violation of the political rights of the direct victims of these attacks, but also of Ecuadorian democracy in general.

IV. Violent crackdown on social protest in October 2019.

60. Having elected a "leftist" president, Ecuadorians were massively dissatisfied with the liberal policies implemented under the MORENO government.

In early October 2019, the Ecuadorian government approved decrees eliminating public fuel subsidies. On October 3, 2019, Ecuadorian citizens, supported by the indigenous movement, rose up against these measures. Some analysts point out the causes of the citizen mobilization:

"We can see behind these demonstrations the weariness of the population, which has been subjected for two and a half years to very aggressive neoliberal structural adjustment policies: suspension of certain rights, of social benefits, etc. Since Moreno came to power in 2017, there has been a shift to the neoliberal right, seeking to reduce the role of the State and the tax burden. There has been a huge tax amnesty for the richest in society. At the same time, the country suffered a fiscal deficit that forced the government to go into debt with the International Monetary Fund. The IMF granted a loan of US\$4.2 billion but demanded a reduction in state and public administration expenditures, which led to numerous layoffs. This contrasts with President Correa's previous term, which was a period of social progress, reduced inequality and economic growth. Correa's government had doubled the GDP in ten years and did so without making neoliberal reforms"¹³⁴.

"A large social movement is shaking Ecuador, marked by road and oil well blockades in the Amazon, demonstrations and strikes. For researcher Marie-Esther Lacuisse, President Moreno has not kept his ecological and social promises and is paying the price for it"¹³⁵.

61. The reaction of the government of Lenín Moreno was to declare a state of emergency.

AFP, "La fotografía del candidato ecuatoriano Andrés Arauz con Nicolás Maduro es un montaje," December 11, 2020, available at. <https://factual.afp.com/la-fotografia-del-candidato-ecuadoriano-andres-arauz-con-nicolas-maduro-es-un-montaje>

AFP, "Andrés Arauz no se refirió a la caravana indígena de Ecuador en eventos con migrantes en EEUU," February 23, 2021, available at. <https://factual.afp.com/andres-arauz-no-se-refirio-la-caravana-indigena-de-ecuador-en-eventos-con-migrantes-en-eeuu>

¹³⁴ IRIS, " Manifestations en Equateur: symbole d'un revirement annoncé ", 7 October 2019. <https://www.iris-france.org/140720-manifestations-en-equateur-symbole-dun-revirement-annonce%E2%80%89/>

¹³⁵ Reporterre, " Equateur : un pays révolté par le retour du FMI dans la politique ", 11 October 2019, <https://reporterre.net/Equateur-un-pays-revolte-par-le-retour-du-FMI-dans-la-politique>

These presidential decrees, denounced as unconstitutional¹³⁶, allowed the criminalization and arrest of those who participated in the demonstrations.

During the month of October, the government systematically criminalized the most politically influential protesters. In total, at least 1192 people were arbitrarily detained between October 3 and 13, 2019. They were carried out searches to journalists, and members of the political party Social Commitment for the Citizen Revolution (FCS).

On October 9, 2019, the Inter-American Commission on Human Rights (hereinafter IACHR) expressed concern about the excessive use of force by State agents. It also noted allegations of pressure exerted to destroy evidence of police violence¹³⁷. On October 17, 2019, the IACHR announced an on-site investigation¹³⁸.

On October 11, 2019, the Ecuadorian State was also questioned by the Working Group on Arbitrary Detention, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the right to freedom of peaceful assembly and of association, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the rights of indigenous peoples and by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. This interpellation follows the receipt of allegations regarding *"serious violations of the rights to freedom of expression, freedom of peaceful assembly and freedom of association in Ecuador, in the context of the demonstrations that have taken place since October 3, 2019 following the declaration of a state of emergency, including excessive use of force against demonstrators (including children, adolescents, pregnant women, elderly people, and persons with disabilities), members of indigenous peoples and journalists, which has caused at least 929 detainees and hundreds of injured, and at least 5 people have reportedly lost their lives while participating in the protests. We have also received information about alleged mass detentions, and events that could constitute torture, cruel, inhuman and degrading treatment or punishment in detention centres"*¹³⁹.

¹³⁶ NORTESUR, "The dictatorship in Ecuador: the unconstitutionality of the states of exception decreed by Lenín Moreno", p.5, October 13, 2019, <https://nortesur.media/2019/10/13/la-inconstitucionalidad-de-los-estados-de-excepcion-decretados-por-lenin-moreno/>

¹³⁷ IACHR, "IACHR and its Special Rapporteurship Concerned about Excessive Use of Police Force against Demonstrators and Attacks on Journalists during Protests in Ecuador," October 9, 2019, press release 252, https://www.oas.org/en/iachr/media_center/PReleases/2019/252.asp

¹³⁸ IACHR, "IACHR Announces Observation Mission to Ecuador in Response to Protests," October 17, 2019, press release 262, https://www.oas.org/en/iachr/media_center/PReleases/2019/262.asp

¹³⁹ Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; of the Special Rapporteur on the situation of human rights defenders; of the Special Rapporteur on the rights of indigenous peoples; and of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Interpellation of 11 October 2019, UA ECU 16/2019, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24900>

62. On October 13, 2019, the Government reached an agreement with the indigenous movement¹⁴⁰ which initiated mobilizations.

The repeal of one of the controversial decrees and the lifting of austerity measures in the indigenous territories placated the citizens and put an end to the insurrection.

63. According to human rights organizations, the police repression left at least 8 dead and 1400 wounded. Among those arrested, 32 people were prosecuted for "rebellion"¹⁴¹.

In 2019, the UN Committee on Economic, Social and Cultural Rights expressed its "*concern at the manner in which the state of emergency proclaimed on 3 October 2019 was implemented following protests against the adoption of austerity measures, in particular with regard to the suspension of freedom of association.*" It is also concerned about the violence related to social protests against austerity measures, which in some cases was accompanied by acts of vandalism, and the use of force, sometimes disproportionate, against protesters and human rights defenders, including by the army (art. 2, para. 1)¹⁴².

On January 14, 2020, the IACHR presented its observations on its visit to Ecuador in relation to the social protests that took place from October 3 to 13, 2019. It noted the violation of multiple fundamental rights in the context of these protests:

A. Attacks and assaults on the press during protests

The escalation of violence resulted in the obstruction of the work of the press, due to a series of attacks against journalists and media outlets, both by public security forces and by demonstrators (...)

(...) They also denounced permanent cuts in Internet access by the telephone platforms of Claro and Movistar. (...)

B. Violations of the rights to freedom of expression and association

(...) Through a public statement, different alternative media outlets that covered the demonstrations in Ecuador denounced the government for technological and digital censorship and indicated that their rights had been intervened and violated. (...)

C. Violations of personal integrity in the context of social protests

During its working visit, the Inter-American Commission received documentary information, audio-visual material and hundreds of testimonies related to the violations of personal integrity in the context of the social protests in Ecuador.

¹⁴⁰ Le Monde, "Equateur : gouvernement et indigènes trouvent un accord pour sortir de la crise", October 14, 2019.

¹⁴¹ ANRed, "Ecuador: Lenin Moreno persecutes communicators and political opponents," October 18, 2019, <https://www.anred.org/2019/10/18/ecuador-lenin-moreno-persigue-a-comunicadores-y-opositores-politicos/>

¹⁴² UN CESCR, "Observations finales concernant le quatrième rapport périodique de l'Équateur", 14 November 2019, E/C.12/EQU/CO/4, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fEQU%2fC.O%2f4&Lang=fr

(...)

These damages were allegedly caused by the violent actions of the law enforcement officers through "mounted police", kicks, blows, verbal aggressions and, even, by firing pellets and/or tear gas directly at the demonstrators or at those who were in the surrounding areas. As a consequence, dozens of people were injured, some of them seriously, due to fractures caused by the impact of projectiles or by pellets lodged in various parts of the body. (...)

In addition to the above, the IACHR received at least nineteen testimonies of people who had lost their sight totally or partially, through the loss of an eye, due to the impact of tear gas bombs or pellets used to disperse the protests, both by police officers and military (...)

The information available to the IACHR reveals that the aggressions and point-blank shots fired by police officers and military forces were also directed against those providing medical assistance to demonstrators. (...)

(...)

In relation to the above, the Inter-American Commission concludes that the violent reaction and the disproportionate use of force by police and military agents in the context of the operations to disperse the demonstrations would be the main cause of the high number of injured persons. As a consequence, the IACHR warns that the State has failed to comply with its obligations to respect and guarantee the right to personal integrity, as enshrined in the American Convention.

D. Affections to life in the context of social protests.

(...) In the framework of its working visit to Ecuador, the IACHR received information from the Ombudsman's Office, civil society organizations and testimonies from the victims' families about eleven people who reportedly lost their lives in the context of the social protests in the country. (...)

(...)

In particular, the IACHR warns that the precipitation of two people from the San Roque bridge occurred during a police operation whose circumstances would indicate a repressive and violent action by State agents in a context that would allow the use of alternative conflict resolution measures (...)

E. Arrests, criminalization and stigmatization of protesters in the context of social protests.

(...) in the period from the start of the social protests on October 2, 2019, until October 13, 2019, a total of 1228 people were arrested

(...)

the IACHR received diverse information of numerous detentions in which due process was allegedly violated. (...)

The IACHR is alarmed by the information received indicating torture and other cruel, inhuman or degrading treatment in the context of detentions. In this regard, according to the information provided by civil society organizations, as well as that received through testimonies, numerous detainees were strongly verbally and physically assaulted; they were allegedly threatened, beaten with fists, kicks and metal batons, pepper sprayed in the face and forced to perform physical exercises. (...)

In terms of criminalization, the IACHR received information on the use of the criminal justice system against protesters and social and opposition leaders. (...)

Finally, the IACHR notes that on several occasions these criminalization processes are preceded and accompanied by stigmatization campaigns (...)

On December 6, the IACHR granted precautionary measures in favour of Paola Verence Pabón Caranqui, Prefect of Pichincha; Virgilio Hernández, Executive Secretary of the Movimiento de Compromiso Social por la Revolución Ciudadana; and Christian Fabián González Narváez. The IACHR, in deciding to grant the measures, noted that among the evidence that can be taken into account when assessing the risk situation of the proposed beneficiaries, following alleged threats and acts of harassment allegedly related to their work as political opposition leaders, it considered the allegedly stigmatizing statements of high-ranking authorities in which they are directly accused of being responsible for the altercations"¹⁴³ .

These findings confirm that the Ecuadorian authorities have seriously violated the fundamental rights and freedoms of Ecuadorians, including political opponents, by arbitrarily detaining them, mistreating them and violating their right to a fair trial.

In a report made a year after the harsh repression of social protest in October 2019, "Alianza por los Derechos Humanos Ecuador" -which groups 18 organizations- pointed out:

- Denial of the facts by the authorities.
- The lack of concrete measures to address the social challenges identified by the population.
- Violation of the constitutional right to protest.
- The focus on certain as a tactic to avoid the media.
- Asymmetrical criminal prosecutions leading to impunity for law enforcement and lack of redress.
- The abuse of the use of the state of emergency by the Executive¹⁴⁴ .

¹⁴³ IACHR, "IACHR Issues Observations Following Visit to Ecuador," January 14, 2020, press release 008, https://www.oas.org/en/iachr/media_center/PReleases/2020/008.asp

¹⁴⁴ Alianza por los Derechos Humanos Ecuador, "Verdad, Justicia y Reparación: A un año de la protestas sociales Octubre 2019 - Informe actualizado, Ecuador", pp.94-95, October 15, 2020, https://ddhhecuador.org/sites/default/files/documentos/2020-10/informe_actualizado_paroec.pdf

64. This management of a social protest through repressive measures that violate fundamental rights and freedoms constitutes a serious violation of the rule of law and the values that are the basis of any democratic state.

The abusive use of the state of emergency in the face of an economic and social crisis, the violent repression of demonstrators, the impunity of the forces of law and order, the criminalization of protest leaders, etc. were repeated in June 2022 (see below).

V. Massive violation of the right to life and respect for the physical integrity of persons deprived of their liberty

65. The Ecuadorian penitentiary system is experiencing great difficulties.

In 2019, when the Ministry of Justice was eliminated by the Government, the new National Service for the Comprehensive Care of Adults Deprived of Liberty and Adolescent Offenders (SNAI) received a budget of \$98 million. In 2020, it was reduced by 43%: only about \$55 million was allocated. By 2021, the budget was increased by \$8 million, reaching \$63 million¹⁴⁵.

It is estimated that in some social rehabilitation centres there is only one guide for every 20 to 30 people¹⁴⁶. There is also a lack of personnel in other areas that are indispensable for true social rehabilitation: educators, doctors, psychiatrists, psychologists.

The lack of management and funding of the prison system has led to "monstrous" overcrowding. The pandemic has increased this problem. *"To reduce the number of prisoners in the midst of the coronavirus outbreak, the government commuted the sentences of those convicted of minor offenses, reducing overcrowding from 42% to 30%"*¹⁴⁷. Unfortunately, this was not enough to ease tensions.

66. In February 2021, extremely violent riots broke out in several Ecuadorian prisons. Some 80 people died.

The IACHR recalled *"the unavoidable legal duty of the State of Ecuador, as guarantor of the rights of persons deprived of liberty, to take concrete actions to guarantee their life and personal integrity. As part of this obligation, the State must adopt measures aimed at preventing and controlling possible outbreaks of violence in detention centres, such as disarming detainees, imposing effective controls to prevent the entry of weapons and other prohibited items, investigating and punishing acts of violence in prison facilities, and preventing the*

¹⁴⁵ "Prison in Équateur", https://fr.wikipedia.org/wiki/Prison_en_%C3%89quateur#cite_note-5

¹⁴⁶ Primicias, "Cárceles tienen déficit de casi 70% de guías penitenciarios," August 3, 2020, <https://www.primicias.ec/noticias/sociedad/carceles-tienen-deficit-setenta-por-ciento-guias-penitenciarios/>

¹⁴⁷ Dayly Sabah, "At least 75 killed in prison riots in Ecuador," February 23, 2021, available at <https://www.dailysabah.com/world/americas/at-least-75-killed-in-prison-riots-in-ecuador> (free translation).

actions of criminal organizations with a presence in prisons"¹⁴⁸ . The IACHR also indicated that through "a February 23 communication addressed to the President of Ecuador, the "Ombudsman's Office" indicated that *intra-prison violence has deepened since 2018, with a progressive increase in violent deaths*"¹⁴⁹ .

67. After this terrible episode, the government did not take adequate measures and the massacres inside the prisons were repeated.

In a report on persons deprived of liberty in Ecuador, published in March 2022, the IACHR stated:

"Ecuador is going through a serious penitentiary crisis of a structural nature, characterized by unprecedented levels of violence and corruption within the prisons, and that responds to the abandonment of the penitentiary system by the State for years, as well as the absence of a comprehensive criminal policy. (...) In this sense, we observe the use of a policy that favours incarceration to solve citizen security problems. This, in turn, has resulted in an exponential increase in incarceration in recent years, excessive use of pretrial detention, obstacles to replace alternative measures to imprisonment, and the impossibility of guaranteeing the social reintegration of detainees.

2. In this scenario, during 2021 a total of 316 persons deprived of liberty died in State custody, and hundreds of others were injured, in a succession of violent attacks carried out in a planned manner by organized groups formed by the detainees themselves" (p.8);

"In this regard, the Commission has pointed out that States must establish strategies to dismantle the criminal structures rooted in prisons that control various criminal activities, such as drug and alcohol trafficking and the collection of extortion fees from other prisoners.

(...)

These serious acts of violence are evidence of a collapsed penitentiary system. There is consensus among the various actors interviewed that the events that occurred in 2021 are not isolated and that the country is facing a "crisis in the penitentiary system", the product of a structural situation that responds to the abandonment of the penitentiary system by the State" (p.86-87);

"the IACHR issues the following recommendations to the State of Ecuador:

(...) 1.1. Guaranteeing the life, security and personal integrity of the persons in its custody, as well as of the officials who perform their duties in detention centres, must be a priority of the State. In this scenario, it is recommended that the State prioritize the

¹⁴⁸ IACHR, "IACHR condemns the death of 79 people in Ecuadorian prisons," February 26, 2021, available at <https://www.oas.org/en/IACHR/jsForm/?File=/es/cidh/prensa/comunicados/2021/044.asp>

¹⁴⁹ IACHR, "IACHR condemns the deaths of 79 people in Ecuadorian prisons," February 26, 2021, available at <https://www.oas.org/en/IACHR/jsForm/?File=/es/cidh/prensa/comunicados/2021/044.asp>

urgent implementation of effective actions aimed at preventing and controlling all types of violence in prisons, as well as re-establishing control of prisons" (p.88)¹⁵⁰.

68. Despite sustained international attention¹⁵¹, the new government has not taken the necessary immediate structural measures.

On May 9, 2022, another massacre took place, claiming 43 new victims and as many families in mourning¹⁵².

On May 10, 2022, Amnesty International reported:

"Since December 2020, at least 390 people have been killed in Ecuador's prisons. Following the May 9 massacre at the Santo Domingo de los Tsáchilas prison, in which at least 44 prisoners died, and 10 others were injured, Erika Guevara-Rosas, Amnesty International's director for the Americas, stated that:

"Being deprived of liberty in Ecuador has become almost a death sentence. Repeated mistakes by Ecuadorian authorities in managing the prison crisis have resulted in the deaths of hundreds of people. Authorities must address, once and for all, the structural causes of this problem, such as overcrowding, corruption and impunity, through a comprehensive prison policy focused on human rights. All deaths and violations of the human rights of persons deprived of their liberty must be thoroughly, independently and impartially investigated.

"In response to this latest massacre, President Guillermo Lasso announced the transfer of "six criminal gang leaders" to other prisons. However, these superficial measures are insufficient to fulfil the main obligation of the authorities in this context: to protect the lives and safety of thousands of people who are deprived of their liberty and who are currently at risk""¹⁵³.

¹⁵⁰ OAS-IACHR, "Persons Deprived of Liberty in Ecuador", Report Approved by the Inter-American Commission on Human Rights on February 21, 2022, https://www.oas.org/es/cidh/informes/pdfs/Informe-PPL-Ecuador_VF.pdf

¹⁵¹ See also, Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Interpellation of 27 October 2021, AL ECU 3/2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26685>

¹⁵² El País, "Al menos 43 presos mueren en un nuevo enfrentamiento en una cárcel de Ecuador", May 9, 2022, <https://elpais.com/internacional/2022-05-09/al-menos-20-presos-mueren-en-un-nuevo-enfrentamiento-en-una-carcel-de-ecuador.html>

¹⁵³ AI, "Ecuador: In light of new prison massacre, authorities must address structural causes", 10 May 2022, <https://www.amnesty.org/en/latest/news/2022/05/ecuador-prison-massacre-authorities-must-address-structural-causes/> (Free translation).

Despite the state of emergency declared by President Lasso in the prison system since September 2021, the massacre of 13 inmates was again reported on July 19, 2022¹⁵⁴, bringing the number of victims since 2020 to over 400. Some detainees were dismembered and decapitated.

69. Persons deprived of their liberty are a vulnerable category of people who are totally under the control of the State.

The failure to guarantee respect for the fundamental rights that are the right to life and the protection of the physical integrity of persons, due to the absence of adequate governmental measures for years, attests to the serious violation by Ecuador of the rights that are at the core of any democratic state.

VI. Impoverishment, increased violence, state of emergency, repression and criminalization of democratic debate

70. In 2019, the UN Committee on Economic, Social and Cultural Rights raised some concerns regarding Ecuador, such as "*the impact of the austerity measures of the 2018-2021 Prosperity Plan and of the agreement concluded with the International Monetary Fund under the Extended Fund Facility on the enjoyment of economic, social and cultural rights*"¹⁵⁵.

The lack of a social response adapted to the needs of the population has led to an increase in the poverty rate. World Bank data show that, after declining from 2008 (35.1%) to 2017 (21.5%), the ratio between the poor population and the national poverty line has steadily increased to reach 33% in 2020¹⁵⁶. The appeal of the Special Rapporteur on the human rights to safe drinking water and sanitation illustrates the lack of contemplation of the basic needs of the most deprived:

"Although it is not intended to prejudge the accuracy of the above information, the possibility that water cut-offs due to lack of payment may be repeated to families in vulnerable and poor situations in Ecuador, after the expiration of the Humanitarian Support Law, in which case their human rights would be violated, is a cause for concern. This concern is accentuated in the current Covid19 pandemic context, given the need

¹⁵⁴ 20Minutos.es, "Al menos 13 muertos por una nueva masacre entre reclusos en una cárcel de Ecuador", 19 July 2022, <https://www.20minutos.es/noticia/5031726/0/al-menos-13-muertos-por-una-nueva-reyerta-en-una-carcel-de-ecuador/>

¹⁵⁵ UN CESCR, "Concluding observations on the fourth periodic report of Ecuador," 14 November 2019, E/C.12/EQU/CO/4, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/324/90/PDF/G1932490.pdf?OpenElement>

¹⁵⁶ "Ratio de la population pauvre en fonction du seuil de pauvreté national (% de la population) - Ecuador", 2007-2020, <https://donnees.banquemondiale.org/indicateur/SI.POV.NAHC?end=2020&locations=EC&start=2007&view=chart>

*for affected people to have access to water and sanitation in order to comply with health recommendations. (...) water cut-offs for lack of payment to people in situations of vulnerability and poverty constitute human rights violations that all States must avoid at all costs in compliance with existing international human rights obligations"*¹⁵⁷ .

71. The more difficult living conditions are not unrelated to increased insecurity and violence.

Thus, *"In parallel to the prison crisis, Ecuador has been dealing since last year with a wave of violence that has triggered an increase in the number of murders, especially those committed by hired assassins, and has led to the declaration of recurring states of exception and emergency, increasing police and military manpower in the streets and imposing curfews. The last state of exception was decreed two weeks ago, without having stopped the violent deaths. As of March, there are 959 homicides in Ecuador. Last year, there were almost 2,500, 80% more than in 2020"*¹⁵⁸ .

In response to the increased violence, Ecuador has not taken the necessary structural measures, but rather, as in the case of the October 2019 protests, has introduced a state of emergency, i.e. mobilized the armed forces to maintain order, suspended citizens' rights and introduced curfews¹⁵⁹ .

72. Economic, social and environmental problems particularly affect Ecuador's indigenous populations.

In 2019, the UN Committee on Economic, Social and Cultural Rights expressed that it was "concerned about the persistence of systemic discrimination, de facto and through violent manifestations, towards some population groups, in particular (...) indigenous peoples"¹⁶⁰ .

On May 4, 2022, Amnesty International reported:

"Authorities and companies in Ecuador threaten the Amazon with extractivist laws, policies and projects (mainly oil and mining) that have not obtained the free, prior and informed consent of indigenous peoples or that have affected their territories, environment, health, water or food, Amnesty International said today, as it released the report Ecuador: The Amazon in danger.

¹⁵⁷ Special Rapporteur on the human rights to safe drinking water and sanitation, appeal of 24 February 2021, OL ECU 1/2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26079>

¹⁵⁸ El País, "Al menos 43 presos mueren en un nuevo enfrentamiento en una cárcel de Ecuador", May 9, 2022, <https://elpais.com/internacional/2022-05-09/al-menos-20-presos-mueren-en-un-nuevo-enfrentamiento-en-una-carcel-de-ecuador.html>

¹⁵⁹ Le Temps, "L'état d'exception décrété en Equateur en raison des violences liées au narcotrafic", October 19, 2021, <https://www.letemps.ch/monde/letat-dexception-decrete-equateur-raison-violences-liees-narcotrafic>

¹⁶⁰ UN CESCR, "Concluding observations on the fourth periodic report of Ecuador," 14 November 2019, p.5, E/C.12/ECU/CO/4, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/324/90/PDF/G1932490.pdf?OpenElement>

"Ecuador must guarantee the consent of Indigenous Peoples to legislation, policies and projects that may put their existence at risk. The Amazon is also a critical ecosystem for overcoming the climate crisis that threatens all life on our planet, and Indigenous Peoples have protected it for centuries"¹⁶¹ .

73. In June 2022, following the rejection of the discussion attempts initiated by the Confederation of Indigenous Nationalities of Ecuador (Conaie), the largest organization of indigenous peoples in the country¹⁶² undertook a national strike action, also blocking some highways.

"CONAIE demands to reduce fuel prices, address the problem of unemployment, regulate the prices of rural products and combat crime and insecurity, among other requests"¹⁶³ . The social protest, initiated by CONAIE, was supported by the unions¹⁶⁴ and other civil society groups¹⁶⁵ who joined the protests.

The national strike began on June 13, 2022.

74. The initial reaction of the authorities was twofold.

On the one hand, the authorities detained the president of CONAIE, Mr. IZA, who was finally released on parole.

On the other hand, President LASSO decreed a "state of emergency due to serious internal commotion"¹⁶⁶ . Despite the approval of this decree, social protest continued. It was violently

¹⁶¹ AI, " Ecuador: Authorities and companies threaten the Amazon and its Indigenous Peoples", 4 May 2022, <https://www.amnesty.org/en/latest/news/2022/05/ecuador-authorities-companies-threaten-amazon-indigenous-peoples/>

¹⁶² Conaie helped overthrow three Ecuadorian presidents between 1997 and 2005. The indigenous community represents more than one million of Ecuador's 17.7 million inhabitants.

¹⁶³ CNN Ecuador, "Judge in Ecuador orders the release of Leonidas Iza, president of the Confederation of Indigenous Nationalities, and orders alternative measures to prison," June 15, 2022, <https://cnnespanol.cnn.com/2022/06/15/ecuador-libertad-leonidas-iza-conaie-orix/>

¹⁶⁴ For example: Latam Gremial, "Sindicatos apoyan el paro nacional que inició hoy en Ecuador convocado por comunidades indígenas", June 13, 2022, <https://latamgremial.com/sindicatos-apoyan-el-paro-nacional-que-inicia-hoy-en-ecuador-convocado-por-comunidades-indigenas/>

"Ecuador: the CFS expresses solidarity and condemns the violence and repression in the country," June 27, 2022, <https://csa-csi.org/2022/06/27/ecuador-la-csa-expresa-su-solidaridad-y-condena-la-violencia-y-la-represion-en-el-pais/>

¹⁶⁵ For example: El Mercurio, 'Universitarios lideraron protesta en Cuenca', 14 June 2022, <https://elmercurio.com.ec/2022/06/14/universitarios-lideraron-protesta-en-cuenca/>

¹⁶⁶ L'Express, "Equateur: poursuite des protestations indigènes malgré l'état d'urgence ", 19 juin 2022, https://www.lexpress.fr/actualites/1/monde/equateur-le-president-declare-l-etat-d-urgence-les-protestations-se-poursuivent_2175486.html

GK, "Guillermo Lasso decreed a state of exception in 3 provinces, what does the decree say?", June 17, 2022, <https://gk.city/2022/06/17/que-dice-decreto-excepcion-pichincha/>

repressed by the forces of law and order (see below)¹⁶⁷. Numerous videos, showing children affected by tear gas or protesters on the ground beaten by the police¹⁶⁸, have circulated on social networks¹⁶⁹, without being broadcast in the "mainstream media". On June 24, 2022, there were six deaths¹⁷⁰. The number of injured, as well as the number of detainees, was very high¹⁷¹.

75. In a statement dated June 20, 2022, Amnesty International denounced the violent management of the social crisis:

"The repression by the government of President Guillermo Lasso of demonstrations called by indigenous, trade union and social organizations in the framework of a national strike since June 13, 2022, is causing a human rights crisis with multiple reports of harassment, excessive use of force, arbitrary detentions, ill-treatment, and criminalization of protesters, journalists and human rights defenders, Amnesty International said today.

(...)

On June 17, President Lasso issued Executive Decree No. 455, which declared "a state of emergency due to serious internal commotion in the provinces of Cotopaxi, Pichincha and Imbabura", suspending freedom of association, assembly and transit for thirty days.

(...)

On June 18, despite the fact that the state of emergency suspended freedom of association and assembly, the Presidency issued Official Bulletin 561, entitled "The capital of Ecuadorians marches for Peace", to promote a march of "hundreds of Quito citizens (...) concerned about the situation of the country and the acts of violence and vandalism". The bulletin included the message "The National Government supports this initiative and joins this cause". Both the official page hosting the bulletin, as well as the tweet promoting it, were subsequently deleted. A video disseminated in social networks, allegedly recorded during the march, shows a group of people chanting racist messages against the indigenous population"¹⁷².

¹⁶⁷ See in particular: Publico.es, "Lasso militariza Ecuador y reprime la protesta indígena contra los recortes", 23 June 2022, <https://www.publico.es/internacional/lasso-militariza-ecuador-reprime-protesta-indigena-recortes.html>

¹⁶⁸ https://twitter.com/virgiliohernand/status/1540697129987063810?s=20&t=-BMDvjb7WJ5uxgweLkj_ew

¹⁶⁹ In particular, see https://twitter.com/conaie_ecuador?lang=fr

France24, "Violentes manifestations en Équateur : "J'ai soigné un homme avec une lésion à l'œil gauche" ", 28 juin 2022, <https://observers.france24.com/fr/am%C3%A9riques/20220628-equateur-manifestations-violences-indigenes-police>

¹⁷⁰ LaLibre.be, "Equateur: 6 morts lors de violents incidents devant le Parlement ", 24 juin 2022, <https://www.lalibre.be/international/amerique/2022/06/24/equateur-6-morts-lors-de-violents-incidents-devant-le-parlement-TDDB26RRSVDIFIR7XMIIVFZZLI/>

¹⁷¹ El Universo, "En diez días de protestas se aprehendió a 106 personas; los delitos imputados son posesión de armas de fuego, ataques a servidores y bloqueo de servicios públicos", 22 June 2022, <https://www.eluniverso.com/noticias/ecuador/en-diez-dias-de-protestas-se-detuvieron-106-personas-los-delitos-van-desde-posesion-de-armas-de-fuego-ataques-a-servidores-bloqueo-de-servicios-publicos-nota/>

¹⁷² Amnesty International, "Ecuador: Repression against protests is causing human rights crisis," June 20, 2022, <https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/ecuador-represion-contra-protestas-esta-causando-crisis-de-derechos-humanos/>

Many other human rights organizations have reacted to the brutality of the repression used against the demonstrators¹⁷³. A preliminary report of an observation mission indicated that *"The testimonies collected are heart-breaking. They all coincide in highlighting the repressive violence deployed and the massive attack on the defenceless civilian population. The security forces acted with vehemence and impunity in the exercise of repression. Following direct orders from the executive power, they deployed abusive, excessive and disproportionate interventions, causing serious injuries, in some cases lethal (...) Thus, according to official sources, the information provided by human rights platforms and the complaints and testimonies received directly, we can report the following human rights violations: • Killings at the hands of the police and military forces. Injuries of varying degrees and mutilations due to disproportionate action by police and military forces. Massive arbitrary detentions and false accusations. Kidnapping, persecution and attacks against the integrity of indigenous and social leaders. • Kidnappings and threats to demonstrators. • Violation of the right to social protest through untimely and unjustified attacks on peaceful demonstrations or agglomerations, particularly the attack on the Casa de la Cultura on Friday, June 24. • Violation of judicial guarantees and access to justice for citizens (failure to receive complaints in public prosecutors' offices, failure to investigate ex officio acts of police violence, among others). • Denial of medical attention by public health institutions on racial and anti-indigenous grounds. Violation of women's integrity, evidencing episodes of humiliation, verbal and symbolic violence. Violation of children's rights. Especially in the context of the repression of mobilizations. • Threats by police forces to volunteer health personnel in peace zones. • Repeated attacks on peace and humanitarian shelter zones, putting thousands of people affected by tear gas launched by security forces during the night in grave danger. Armed attacks by civilian organizations and police forces, based on racist and anti-indigenous violence. • Censorship of community media and blocking of the free flow of information. Blocking of internet service and social networks. Hacking of personal accounts of indigenous and social leaders. Forced disappearance of people who were participating in the mobilizations"*¹⁷⁴.

On June 24, 2022, the IACHR and the Special Rapporteur for Freedom of Expression expressed their concern, making an urgent call for dialogue:

"The protests, which began on June 13, following a call by the Confederation of Indigenous Nationalities of Ecuador (CONAIE), contain several demands, among which stand out the attention to economic, social, cultural and environmental rights

¹⁷³ CubaDebate, "Ecuador: Movimientos sociales denuncian la violencia policial", June 22, 2022, <http://www.cubadebate.cu/noticias/2022/06/22/ecuador-movimientos-sociales-denuncian-la-violencia-policial-video/>

Telam, "Ecuador: Una misión de solidaridad argentina releva la situación de los DDHH", June 25, <https://www.telam.com.ar/notas/202206/596607-ecuador-una-mision-de-solidaridad-argentina-releva-la-situacion-de-los-ddhh.html>

¹⁷⁴ International Solidarity and Human Rights Mission, "Informe preliminar : violación de DDHH en Ecuador en el marco del paro nacional 2022", 28 June 2022, <https://www.resumenlatinoamericano.org/2022/06/28/ecuador-se-ha-dado-a-conocer-el-informe-preliminar-de-la-mision-de-solidaridad-internacional-y-derechos-humanos-que-visito-este-pais-graves-constataciones-sobre-la-represion/>

(DESCA). (...) In the current call, organizations denounced the absence of effective dialogue mechanisms to respond to these demands.

The State declared a state of emergency due to serious internal commotion (...) Ecuador has the duty to ensure that the provisions adopted are proportional and that the suspension of rights or guarantees is carried out when it is the only way to deal with a given situation (...).

The IACHR is concerned that according to information from the Ombudsman's Office, 6 people lost their lives in the context of the protests, at least 2 as a result of gunshot wounds. Also, according to other sources, at least 166 demonstrators have been injured and 120 agents of the National Police. According to official figures, 108 people have been arrested. For their part, civil society organizations have expressed concern about the detention of social leaders, including the detention of the leader of CONAIE; and possible cases of abuse of police force, including raids on shelters in university campuses where demonstrators were staying. The IACHR and its RELE condemn all human rights violations committed in the context of social protest and urge the State to clarify the circumstances of the deaths with due diligence.

In addition, at least 86 serious acts of violence against the press covering the National Strike were reported by civil society organizations. The reports include acts of physical aggression - including the use of whips and spears - and the throwing of hot liquids against journalists, threats, harassment, damage, illegal appropriation of equipment and impacts by tear gas bombs. In addition to the above, the information reports attacks on websites of newspapers or civil society organizations that monitor and report on the events of the National Strike.

(...)

Lack of access to information has the potential to affect both institutional and civil society voices, hindering social understanding of the environment and making it more difficult to resolve disputes.

The IACHR and its RELE, in addition, took note of the various acts of violence reported by the State against public agents and public property, (...)

However, the State of Ecuador must act on the basis of the lawfulness of protests as a manifestation of the rights of association, freedom of expression and peaceful assembly. The fact that some groups or individuals exercise violence does not, per se, make all protests violent or illegitimate, nor does it allow public authorities to criminalize in a generalized manner or security forces to resort to the use of force or mass arrests.

(...)

*Within the framework of democratic institutions, the State is responsible for guaranteeing the rights and channelling the claims of the population, so it must ensure the strengthening of spaces that address petitions, claims and demands"*¹⁷⁵ .

76. In the face of the demonstrations, the government did not initiate a dialogue, but argued that the social protest was aimed at destroying democracy¹⁷⁶ , disregarding the government's serious lack of legitimacy¹⁷⁷ .

The government's response has been to criminalize protest leaders, establish a state of emergency, not to dialogue, support the forces of law and order, and criminalize democratic debate.

- Criminalization of protest leaders

The day after the general strike, the police arrested the president of CONAIE¹⁷⁸ . The judiciary was once again used to discredit the social movement. The arbitrary detention and criminalization of the leader of the indigenous movement was widely denounced¹⁷⁹ . The Alianza por los derechos humanos Ecuador, of which 13 organizations are members, has made *"an URGENT call to the judiciary to maintain its independence in all procedural actions in which it must intervene. We ask that a rational, proportional and last resort use of criminal law be made, that it be rigorous in the observance of national and international standards on due process and the human rights of indigenous peoples, and above all that it take into account the history of serious human rights violations"*¹⁸⁰ .

¹⁷⁵ OAS, "CIDH y RELE observan con preocupación la agudización de tensiones sociales en Ecuador e instan a un diálogo urgente, inclusivo y efectivo", 24 June 2022, <https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2022/145.asp>

¹⁷⁶ Infobae, "Ecuador's Defense Minister said that "democracy is at serious risk" due to protests against Lasso's government," June 21, 2022, <https://www.infobae.com/america/america-latina/2022/06/21/el-ministro-de-defensa-de-ecuador-dijo-que-la-democracia-esta-en-serio-riesgo-por-las-protestas-contr-a-el-gobierno-de-lasso/>

¹⁷⁷ RFI, "Lasso completes one year in power with popularity on the decline", 24 May 2022, <https://www.rfi.fr/es/am%C3%A9ricas/20220524-lasso-cumple-un-a%C3%B1o-en-el-poder-con-una-popularidad-a-la-baja>

EcuadorEnVivo, "Credibilidad de Lasso en el 12 %, tras un año de gestión", 17 June 2022, <https://ecuadorenvivo.com/index.php/entrevistas/a-primera-hora/item/144506-credibilidad-de-lasso-en-el-12-tras-un-ano-de-gestion>

¹⁷⁸ BBS News, "Ecuador police arrest protest leader Leonidas Iza", 14 June 2022, <https://www.bbc.com/news/world-latin-america-61796430>

¹⁷⁹ See in particular, FrontLine Defenders, "Detención arbitraria y criminalización del defensor indígena Leonidas Iza Salazar en el marco de protestas pacíficas en el país", 17 June 2022, <https://www.frontlinedefenders.org/es/case/arbitrary-detention-and-criminalization-indigenous-defender-leonidas-iza-salazar-context>

Inred.org, "Inredh ante la detención ilegal de Leonidas Iza, presidente de la Conaie, y el contexto de movilizaciones", 14 June 2022, <https://inredh.org/inredh-ante-la-detencion-ilegal-de-leonidas-iza-presidente-de-la-conaie-y-el-contexto-de-movilizaciones/>

¹⁸⁰ Alianza por los Derechos Humanos, "Paro nacional - Junio 2022: Pronunciamiento desde la Alianza por los Derechos Humanos sobre las acciones legítimas de protesta social y la respuesta estatal de criminalización por parte del Gobierno Nacional", 14 June 2022, <https://ddhcuador.org/sites/default/files/documentos/2022-06/Pronunciamiento%20Alianza%20DDHH%20sobre%20protesta%20social%20Junio%202022%20.%2014.06.22.pdf>

In contrast to this call for restraint, the Ecuadorian Attorney General's Office raided the premises of the Casa de la Cultura Ecuatoriana (CCE), a symbolic place of the indigenous social struggle, following an anonymous complaint¹⁸¹.

- State of emergency

The general strike began in Ecuador on June 13, 2022. On June 17, 2022, President Lasso declared a state of emergency (decree n°455), without having initiated any dialogue with CONAIE leaders¹⁸².

The extent of the restrictions implied by the presidential decree, coupled with police violence and the government's chaotic management of the crisis, led members of the National Assembly to call for a democratic debate on the presidential decree. In response to this announcement, the executive reacted by filing requests for provisional measures before the courts to prevent the parliamentary session from taking place¹⁸³. The President of the Republic, Guillermo Lasso, then pre-empted the National Assembly by revoking his decree n°455 and replacing it with a new decree on June 20, 2022. The debate did not take place due to President Lasso's sudden decision to end the state of emergency on June 25, 2022.

- Lack of dialogue, support for the forces of law and order, criminalization of democratic debate

Despite the strong popular mobilization and the impact of the general strike in the country, President Lasso did not meet with the leaders of the social movement, but instead adopted unilateral measures that were considered unsatisfactory¹⁸⁴. It was not until June 27, 2022, 14 days after the beginning of the national strike, that the government, under international pressure, held its first meeting with the various leaders of the indigenous organizations¹⁸⁵. On June 28, 2022, President Lasso announced the suspension of the dialogue.¹⁸⁶

¹⁸¹ El Comercio, "Fiscalía de Ecuador allana la Casa de la Cultura en Quito por paro indígena", 19 June 2022, <https://elmercurio.com.ec/2022/06/19/fiscalia-de-ecuador-allana-la-casa-de-la-cultura-en-quito-por-paro-indigena/>

¹⁸² France24, "Guillermo Lasso declares state of emergency in Ecuador after fifth day of claims", 18 June 2022, <https://www.france24.com/es/am%C3%A9rica-latina/20220618-guillermo-lasso-declara-el-estado-de-excepci%C3%B3n-en-ecuador-tras-quinto-d%C3%ADa-de-reclamo>

¹⁸³ El Universo, "Paro nacional: hay dos pedidos de medidas cautelares para que la Asamblea Nacional no se reune y deroga el decreto 455", 20 June 2022, <https://www.eluniverso.com/noticias/politica/paro-nacional-presentan-solicitud-de-medidas-cautelares-para-que-la-asamblea-nacional-no-se-reuna-y-derogue-el-decreto-455-nota/>

¹⁸⁴ Presenza, "Ecuador: el Paro no para", June 27, 2022, <https://www.presenza.com/es/2022/06/ecuador-el-paro-no-para/>

¹⁸⁵ El Comercio, "Gobierno llega a reunión con la Conaie en la Basílica", June 27, 2022, <https://www.elcomercio.com/actualidad/politica/conaie-dialogo-ejecutivo-poderes-estado.html>

¹⁸⁶ El Comercio, "Lasso suspends dialogue with Conaie due to attack on military personnel in Shushufindi", June 28, 2022, <https://www.elcomercio.com/actualidad/politica/lasso-suspende-dialogo-conaie-ataque-militares-shushufindi.html>

While refusing to engage in dialogue, the Ecuadorian authorities positioned themselves as victims. They maintained a discourse that discredited and criminalized the social movement, without condemning the serious abuses and police violence, and also suggested without evidence that the protesters were infiltrated by criminal groups¹⁸⁷.

The June 2022 protests highlighted a serious pre-existing crisis of governance and legitimacy¹⁸⁸.

The UNES party, which groups together supporters of the Citizen Revolution, then made a political analysis, pointing out that President Lasso did not have the support of Ecuadorians, that his government did not have a majority in the National Assembly and that the country was in a state of serious social unrest, which justified the adoption of presidential decrees establishing a state of emergency. To overcome this crisis, UNES considered it appropriate to use the constitutional mechanism known as "cross death" which implies new presidential and parliamentary elections"¹⁸⁹.

CONAIE is an organization that represents indigenous peoples, but it is not a political party. The political party that brings indigenous demands to the National Assembly is called PACHAKUTIK. On June 25, 2022, PACHAKUTIK announced that, given the lack of dialogue and the brutal repression of demonstrations, it was calling on its members to support the constitutional request for the impeachment of President Lasso. *"Our commitment is with the people, we have demanded dialogue as a way out of the crisis, the response has been repression, today we have the possibility to act from the Legislative"*¹⁹⁰.

In the face of civil and political criticism, the government has accused, through the press, the "correístas" of having originated the popular protest movement¹⁹¹ and of being allies of drug trafficking, on the one hand, and on the other hand has insisted that those who support the demand for the president's removal would be coup plotters.¹⁹²

¹⁸⁷ EcuadorEnVivo, "Lasso announces that he will use all the resources of the public force and accuses Iza of being a coup leader", June 24, 2022, <https://www.ecuadorenvivo.com/index.php/politica/item/145035-lasso-anuncia-que-empleara-todos-los-recursos-de-la-fuerza-publica-y-acusa-a-iza-de-golpista>

¹⁸⁸ In this sense: Primicias.ec, "Revocatoria del mandato contra Lasso avanza silenciosamente durante el paro", 13 June 2022, <https://www.primicias.ec/noticias/politica/revocatoria-mandato-lasso-paro-nacional/>

¹⁸⁹ Constitution of Ecuador (2008), https://www.oas.org/juridico/pdfs/mesicic4_ecu_const.pdf

Article 130 of the Ecuadorian Constitution:

"The National Assembly may remove the President of the Republic from office in the following circumstances

following cases:

(...)

2. Due to serious political crisis and internal commotion

¹⁹⁰ https://twitter.com/PKNacional18/status/1540755980161622016?ref_src=twsrc%5Etfw

¹⁹¹ EcuadorEnVivo, "Villavicencio: 'Esta intentona golpista es liderada por el correísmo desde Bélgica'", May 23, 2022, <https://ecuadorenvivo.com/index.php/politica/item/144935-villavicencio-esta-intentona-golpista-es-liderada-por-el-correismo-desde-belgica>

¹⁹² El Universo, "'Este es el golpista", le responde el presidente Guillermo Lasso a Rafael Correa sobre propuesta de revocatoria de mandato", 23 June 2022, <https://www.eluniverso.com/noticias/politica/este-es-el-golpista-le-responde-el-presidente-guillermo-lasso-a-rafael-correa-sobre-propuesta-de-revocatoria-de-mandato-nota/>

There is no reason to believe that the correístas originated the protest movement against President Lasso. This rhetoric is used to link the indigenous social movement with an "enemy" already fabricated by lawfare (see above). The unfounded accusation¹⁹³ of a link between the correístas and drug trafficking¹⁹⁴ is also intended to delegitimize and discredit social protest and avoid debate and consideration of the economic and social problems that justified the magnitude of the protests.

As for the use by the National Assembly of the prerogative offered by a constitutional provision, this can in no way be considered a coup d'état, since it is a legal solution to the crisis in Ecuador. The government's discourse¹⁹⁵ was clearly demagogic. However, continuing with the lawfare approach, a criminal investigation was opened against the numerous parliamentarians who favoured the use of the "cross death" mechanism¹⁹⁶.

After several days of debate in the National Assembly, a vote was held on the presidential impeachment request: 80 parliamentarians - the two largest parties in the country, UNES and PACHAKUTIK - voted in favour, 40 voted against and 9 parliamentarians abstained. The National Assembly has 137 members. President Lasso's CREO party has 12 deputies. All parliamentarians accepted the vote, in accordance with fundamental democratic principles.

Some media presented this result as a "victory" for President Lasso¹⁹⁷. However, it reflects an unprecedented governmental crisis.

¹⁹³ Ministry of Government Ecuador, "The Department of Justice through the US DEA decorates Minister Serrano for his management in the fight against drugs", 2016, <https://www.ministeriodegobierno.gob.ec/el-departamento-de-estado-de-eeuu-condecora-al-ministro-serrano-por-su-gestion-en-la-lucha-antidrogas/>

"In the last 6 and a half years, 191 % more drugs have been seized on average per year than in the previous 10 years. 332 metric tons of drugs from 2010 to date, versus 268 from 2000 to 2009. We have seized practically the same amount in approximately 6 and a half years as in 19 years".

¹⁹⁴ El Universo, "Declaración del presidente Guillermo Lasso enfureció a Rafael Correa", June 23, 2022, <https://www.eluniverso.com/noticias/politica/declaracion-del-presidente-guillermo-lasso-enfurecio-a-rafael-correa-nota/>

Also reproduced: El Universo, ""Este es el golpista", le responde el presidente Guillermo Lasso a Rafael Correa sobre propuesta de revocatoria de mandato", 23 June 2022, <https://www.eluniverso.com/noticias/politica/este-es-el-golpista-le-responde-el-presidente-guillermo-lasso-a-rafael-correa-sobre-propuesta-de-revocatoria-de-mandato-nota/>

See also: El Comercio, "Correísmo denuncia a Ministro Carrillo y pide su comparecencia en Asamblea",

¹⁹⁵ SwissInfo, "Lasso accuses Correísmo of trying to "assault democracy" in Ecuador", https://www.swissinfo.ch/spa/ecuador-gobierno_lasso-acusa-al-corre%C3%ADsmo-de-intentar--asaltar-la-democracia--en-ecuador/47711392

¹⁹⁶ EcuadorEnVivo, "Villavicencio: 'Esta intentona golpista es liderada por el correísmo desde Bélgica'", May 23, 2022, <https://ecuadorenvivo.com/index.php/politica/item/144935-villavicencio-esta-intentona-golpista-es-liderada-por-el-correismo-desde-belgica>

¹⁹⁷ ABS International, "Lasso retains presidency and defeats opposition Correa", June 29, 2022, https://www.abc.es/internacional/abci-lasso-retiene-presidencia-y-derrota-correismo-opositor-202206290642_noticia.html

77. In the end, despite the announcement of the refusal to dialogue with the president of the Conaie¹⁹⁸, the government had to agree to sit at the negotiating table.

After 18 days of uninterrupted general strike and protests, an "Act for Peace" was signed, putting an end to the demonstrations and conceding some of the demands of the indigenous associations. The agreement provided for the continuation of negotiations in a peaceful atmosphere¹⁹⁹.

The government's virulent attacks, widely publicized by the press, against R. CORREA DELGADO²⁰⁰, the UNES party, and CONAIE representatives²⁰¹ have not stopped. They vitiate the debate and undermine the right of Ecuadorians to a democratic and constructive resolution of their important points of concern.

78. Ecuador is currently undergoing a profound social, economic, security, political and democratic crisis.

The recent management of this crisis has seriously violated the fundamental rights and freedoms of Ecuadorians (right to live with dignity, right to health, freedom of expression and demonstration, right to life, right to respect for physical integrity, right to a fair trial, freedom to exercise political rights).

VII. Organization of a new referendum (2022): new fears of deinstitutionalization and politicization of the justice system

79. In the midst of a crisis of legitimacy and governability, President Lasso announced in September 2022 his intention to call a new referendum.

¹⁹⁸ ABS International, "Lasso retains presidency and defeats opposition Correa", June 29, 2022, https://www.abc.es/internacional/abci-lasso-retiene-presidencia-y-derrota-correismo-opositor-202206290642_noticia.html

¹⁹⁹ Government of Ecuador, "Finaliza paro en Ecuador, se firma acta por la paz", June 30, 2022, <https://www.presidencia.gob.ec/finaliza-paro-en-ecuador-se-firma-acta-por-la-paz/>

²⁰⁰ For example: La Nacion, "El embajador de Ecuador en la Argentina apuntó contra Correa, Venezuela y Cuba por las protestas en su país: Son regímenes del mal", 1 July 2022, <https://www.lanacion.com.ar/el-mundo/el-embajador-de-ecuador-en-la-argentina-apunto-contra-correa-venezuela-y-cuba-por-las-protestas-en-nid01072022/>

El Comercio, "Guillermo Lasso: Correa 'is desperate to return to Ecuador to achieve impunity'", 18 July 2022, <https://www.elcomercio.com/actualidad/politica/lasso-correa-desesperado-regreso-ecuador-impunidad.html>

Expreso.ec, "Maniobras desestabilizadoras tejidas de varios frentes", July 9, 2022, <https://www.expreso.ec>

²⁰¹ For example: Rfi, "Indígenas de Ecuador niegan acusación del presidente que se financian con el narco", 10 July 2022, <https://www.rfi.fr/es/m%C3%A1s-noticias/20220709-ind%C3%ADgenas-de-ecuador-niegan-acusaci%C3%B3n-del-presidente-que-se-financian-con-el-narco>

GK, "Conaie: declaraciones de Lasso ponen en riesgo los acuerdos", 9 July 2022, <https://gk.city/2022/07/09/declaraciones-lasso-conaie-riesgo-acuerdos/>

The government justifies this new referendum by the need to improve security, the institutional framework of Ecuador and the protection of natural resources²⁰², naturally laudable objectives.

Unfortunately, as in 2018, it quickly became clear that affirmative answers to the questions posed would not solve the serious problems facing Ecuador but would increase the risk of human rights abuses and violations, the lack of representativeness of certain citizens, and the politicization of institutions that should be independent. This is a matter of great concern, which constitutes one more step towards the disintegration of the rule of law.

80. The first concern is the *modus operandi* that the Government will adopt in relation to the necessary constitutional control of the questions asked in a referendum.

Indeed, on September 12, 2022, President Lasso presented the eight questions to which he wants the Ecuadorian people to answer "yes" or "no":

" 1. Currently, the Armed Forces cannot support the National Police in the internal protection and maintenance of public order. Do you agree with allowing the complementary support of the Armed Forces in the functions of the National Police to combat organized crime, by amending the Constitution in accordance with the provisions of Annex 1?"

2. Extradition of Ecuadorians is prohibited for all crimes, including those related to transnational organized crime such as drug trafficking, arms trafficking, human trafficking and migrant smuggling. Do you agree with allowing the extradition of Ecuadorians who have committed crimes related to transnational organized crime, through processes that respect rights and guarantees, amending the Constitution in accordance with Annex 2?"

3. Currently, the Judiciary Council selects, evaluates, promotes, trains and sanctions prosecutors, despite the fact that the Prosecutor General's Office is an autonomous body. Do you agree with guaranteeing the autonomy of the Prosecutor General's Office, so that it selects, evaluates, promotes, trains and sanctions its employees through a Prosecutor Council, amending the Constitution in accordance with Annex 3?"

4. At present, the National Assembly is made up of 137 assembly members and it is estimated that, with the population census of 2022, this number will increase to

²⁰² Reuters, "Ecuador plans referendum to cut to assembly seats, fight drug trafficking", 12 September 2022, <https://www.reuters.com/world/americas/ecuador-plans-referendum-cut-assembly-seats-fight-drug-trafficking-2022-09-12/>

Also: "Constitutional reforms related to the fight against insecurity, the quality of institutions, especially the National Assembly and the Council of Citizen Participation and Social Control (PSC), and other environmental policies are proposed" - El Universo, "Estas son las preguntas del referéndum impulsado por el gobierno de Guillermo Lasso", September 12, 2022, <https://www.eluniverso.com/noticias/politica/estas-son-las-preguntas-del-referendum-impulsado-por-el-gobierno-de-guillermo-lasso-nota/>

approximately 152 assembly members. Do you agree with reducing the number of assembly members and that they be elected according to the following criteria: 1 assembly member per province and 1 additional provincial assembly member for every 250,000 inhabitants; 2 national assembly members for every million inhabitants; and 1 assembly member for every 500,000 inhabitants residing abroad? 2 national assemblymen for each million inhabitants; and 1 assemblyman for each 500,000 inhabitants residing abroad, amending the Constitution according to Annex 4?

5. There are currently 272 political movements in Ecuador. These do not guarantee citizen representation, nor adequate participation of their members. Do you agree with requiring political movements to have a minimum number of members equivalent to 1.5% of the electoral registry of their jurisdiction and obliging them to keep a registry of their members periodically audited by the National Electoral Council, amending the Constitution in accordance with Annex 5?

6. The Council of Citizen Participation and Social Control (CPCCS) is a public entity that currently has the power to appoint 77 authorities. Do you agree with eliminating the power to appoint authorities that the CPCCS has and implementing processes that guarantee meritocracy, public scrutiny, collaboration and control of different institutions, so that the National Assembly will be the one to appoint through these processes the authorities currently elected by the CPCCS and its advisors, amending the Constitution in accordance with Annex 6?

7. The Constitution excludes water protection areas from the National System of Protected Areas, so they do not enjoy its protection. Do you agree with the incorporation of a subsystem of water protection to the National System of Protected Areas, amending the Constitution in accordance with Annex 7?

8. The Constitution does not provide for compensations to those who support the generation of environmental services. Do you agree that individuals, communities, peoples and nationalities, may be beneficiaries of compensations duly regularized by the State, for their support to the generation of environmental services, by amending the Constitution in accordance with Annex 8?"

As required by law, the Government first submitted its proposed questions to the Constitutional Court to evaluate their legal and constitutional relevance. In principle, the Constitutional Court has 20 days to make its evaluation. However, it seems extremely difficult, if not impossible, for the Constitutional Court to meet this deadline, given that the annex of the questions is a 470-page document.

There are therefore strong fears that, as in 2018 (see above), the Government will dispense with the constitutionality opinion. This approach was strongly criticized by several international bodies. Moreover, the need for such lengthy explanations is an indication of the complexity of

the issues and of the project that is hidden, so it is likely that the average citizen would not be able to vote with full knowledge of the facts.

However, the process to be followed is not the only source of concern. From a cursory analysis it is immediately apparent that affirmative answers would lead to consequences contrary to the objectives supposedly pursued. It is worth clarifying that the transcribed text on the questions is referential and that the annex announced in each one of them is the one that details the true scope and intentions of the consultation.

81. We believe it is important to call attention to the risks involved in some of the questions that the government intends to ask Ecuadorian citizens.

The first question reads:

"1. Currently, the Armed Forces cannot support the National Police in the internal protection and maintenance of public order. Do you agree with allowing the complementary support of the Armed Forces in the functions of the National Police to combat organized crime, amending the Constitution in accordance with the provisions of Annex 1?"

In theory, it is intended to improve the security of Ecuadorians.

However, it is worrying to pose such a question, the answer to which would increase the "militarization" of police action, without having previously implemented a government action plan against the increase in violence with the tools that Ecuadorian leaders already possess, and without having developed a strategy to tackle the main cause of the increase in violence: the impoverishment of the population and the increase in social inequalities (see above). It is really simplistic - although from a communication point of view very promising - to state that "*The current situation of violence and insecurity in Ecuador is largely caused by the presence of organized crime, which has become increasingly strong in recent years*"²⁰³.

Opting for the path of increased repression proposed by this question should only be done as a subsidiary option, after all other options have been explored. This is not the case. The question seems, therefore, demagogic, as it pretends to give the appearance of an answer to an extremely complex problem that will be impossible to contain by this means.

Moreover, the measure may be worrisome if one recalls that during the June 2022 demonstrations, the leaders of the social protest and their movements were labelled as criminals, as organized groups linked to drug trafficking.

²⁰³ Annex to the referendum questions, p.17

In addition, the Constitution of Ecuador itself provides that a constitutional reform as proposed in this question cannot be carried out through a popular consultation, as the President intends. Thus, there is a possibility that this question will not pass constitutional control due to its form.

82. The third question is even more problematic.

Consultation:

"3. Currently, the Judiciary Council selects, evaluates, promotes, trains and sanctions prosecutors, despite the fact that the Prosecutor's Office is an autonomous body. Do you agree with guaranteeing the autonomy of the Prosecutor General's Office, so that it selects, evaluates, promotes, trains and sanctions the servants that make it up through a Prosecutorial Council, amending the Constitution in accordance with Annex 3?"

The reaction of the Council of the Judiciary was immediate:

On her hand, María Josefa Coronel, director of the Judiciary Council in Guayas, told CNN Spanish edition, that the proposal to remove functions from this institution is "disconcerting" and causes a duplication of competencies.

"My first reaction is one of bewilderment. The appropriate thing to do would be to leave justice free. A Judiciary Council has already been structured; if something does not work, we must verify why it does not work (...) Furthermore, Director Coronel pointed out that in the midst of the justice crisis in the country, the Judiciary Council must be strengthened. "They intend to create another council to guarantee fiscal autonomy when the Prosecutor's Office is autonomous", she specified"²⁰⁴.

Basically, a positive answer to this question would lead to a situation contrary to the principle that judges cannot control themselves and that it is more appropriate for an independent body to be in charge of discipline. This principle is intended to guarantee the principle of independence of the judiciary. The Prosecutor's Office is part of the judiciary, so the Council of the Judiciary is the body in charge of selection, evaluation and enforcement of discipline.

The proposal, better described in the annex, goes in a direction that would give the Attorney General much more power than he currently has. He would become the disciplinary authority of all his subordinates. He could be completely transformed into an arm of political interest, over which no external control could be exercised. In the context of the lawfare described above, this proposal is alarming. What prosecutor would still dare to act with the independence and impartiality that his function requires?

²⁰⁴ CNN, "Ecuador's president proposes a list of questions for popular consultation," September 12, 2022, <https://cnnespanol.cnn.com/2022/09/12/ecuador-pliego-preguntas-consulta-popular-orix/>

Concern is heightened by the fact that this is the only issue for which there is no deadline for the National Assembly to proceed with the reform of the law should it be approved. The text of the annex establishes that the referendum proposal would be directly applicable, requiring only the adoption of a regulation by the current Attorney General.

83. Regarding the composition of the National Assembly, the following question is proposed:

"4. At present, the National Assembly is composed of 137 assembly members, and it is estimated that, with the population census of 2022, this number will rise to approximately 152 assembly members. Do you agree with reducing the number of assembly members and that they should be elected according to the following criteria: 1 assembly member per province and 1 additional provincial assembly member for every 250.000 inhabitants; 2 national assemblymen for each million inhabitants; and 1 assemblyman for each 500,000 inhabitants residing abroad, amending the Constitution in accordance with Annex 4?"

This issue seems to have been included to satisfy the growing voices in Ecuador against the inefficiency of the legislative branch and the abuses committed by some of its members. It seems, therefore, demagogic, since it is clear that reducing the number of parliamentarians will not solve these problems.

More fundamentally, it appears that its implementation will reduce the number of parliamentarians to one for the provinces which currently have two representatives. As E. RON explains, this modification is detrimental to the representativeness and plurality of the National Assembly, without providing any solution to the problem mentioned²⁰⁵. It will not have a positive impact, but risks concentrating power in the hands of a single person in these small provinces, which paradoxically could create an increase in the deficit of confidence in the legislative branch. In fact, as has been revealed in recent weeks, there is a possibility that this concentration and contraction of representation could increase the possibility of committing acts of corruption due to the disposition or hoarding of votes in parliament.

84. The fifth question is detrimental to political freedom and its diversity:

"5. Currently there are 272 political movements in Ecuador. These do not guarantee citizen representation, nor adequate participation of their members. Do you agree with requiring political movements to have a minimum number of affiliates equivalent to 1.5% of the electoral registry of their jurisdiction and obliging them to keep a registry of their members periodically audited by the National Electoral Council, amending the Constitution in accordance with Annex 5?"

²⁰⁵ E. Ron, electoral political expert, https://www.facebook.com/jimmyjairala/videos/443760157731296/?extid=WA-UNK-UNK-UNK-AN_GK0T-GK1C&ref=sharing

This proposal proposes to eliminate the institution of the "*permanent adherent*" and constitutionalizes the requirement of affiliates equivalent to at least 1.5% of the electoral roll in order to be recognized as a political party or movement. It also seeks that the electoral control body be stricter with the systems of verification of signatures of affiliates, and that these be permanent and continuous.

Making it difficult to create and maintain political structures does not seem to be in line with the objective of guaranteeing citizen representativeness.

85. All of the above highlights the demagogic nature of the referendum planned by President Lasso as a means of promoting the image of a man who acts while his government is paralyzed without sufficient support in parliament.

However, beyond this demagoguery, the project behind the planned referendum is extremely serious for democracy and is in line with the dismantling of the previous 2018 referendum (see above).

The danger lies existentially in question number 6:

"6. The Council of Citizen Participation and Social Control (CPCCS) is a public entity that currently has the power to appoint 77 authorities. Do you agree with eliminating the power to appoint authorities that the CPCCS has and implementing processes that guarantee meritocracy, public scrutiny, collaboration and control of different institutions, so that it is the National Assembly that appoints through these processes the authorities currently elected by the CPCCS and its counsellors, amending the Constitution in accordance with Annex 6?"

It changes the appointing body of the control authorities, from the CPCCS as it is now, to the National Assembly. In general, all authorities to be elected by the Assembly would come from shortlists presented by the Executive. The Superintendencies and the Attorney General would not be elected from shortlists but from fixed names proposed by the President for consideration by the Assembly²⁰⁶. The other authorities would come from shortlists to be chosen by the President himself, from 6 names that would come from different sources. In the case of the Prosecutor's Office, for example, they would come from pairs proposed by the National Court of Justice, the Prosecutor's Office itself and the President. For the Comptroller's Office, they would come from pairs presented by the National Court of Justice, the Comptroller himself and the President.

²⁰⁶ As in the U.S. Supreme Court, which recently demonstrated its political character in a decision contrary to all precedents that normally bind judges - BBC News, "Abortion in the U.S.: Supreme Court overturns Roe v. Wade and eliminates constitutional right to terminate pregnancy nationwide," June 24, 2022, <https://www.bbc.com/mundo/noticias-internacional-61806107>

What is most striking is that the proposal intends to grant the President practically unlimited powers, since a nomination initiative could only be denied with two thirds of the members of the Assembly²⁰⁷, a quorum that is very difficult to obtain. Furthermore, if the votes to deny the nomination or the nomination proposal were to be obtained, the President would have to send another proposal, which, in order to be denied again, would require $\frac{3}{4}$ of the votes against the members of Parliament, a quorum impossible to obtain.

Also, the term to decide on the suitability of a candidate is very short: only 15 days for a Commission to analyse the probity of three persons and for the Plenary of the National Assembly to pronounce itself. In case of administrative silence, the proposal becomes effective by operation of law.

So, the proposal is a *carte blanche* to the President to appoint whoever he wants to assume the functions of control authority. The only exception would be the manner of election of the members of the CPCCS, who would come from a list of 18 persons proposed by the Attorney General's Office.

This is very serious for the rule of law and the preservation of the independence of the different powers among them, including the judiciary, which serves to ensure the protection of the rights of Ecuadorians against, among others, the administration. A serious politicization of public institutions. Furthermore, there is no logic or explanation in leaving the nomination of the members of the CPCCS to the Attorney General's Office. The link between citizen participation and the protection of public order is not understood, so that the Attorney General's Office is granted this privilege.

Concretely, this reform will mean that President Lasso - who criticizes the absence of appointment of some charges by the CPCCS²⁰⁸ - could become a dictator by empowering him to appoint by hand those authorities who, as of the date of the consultation, have not been appointed.

This proposal clearly violates the principle of separation of powers, judicial independence, increases the politicization of the public service, arbitrariness and the risks of abuse of functions as well as lawfare.

86. After the dramatic consequences of the illegal referendum of 2018, it is extremely worrying to note that, in order to give himself the image of a man who takes action, the President of the Republic proposes to organize a new referendum, demagogically constructed, promising further politicization of justice and other instances of State control.

²⁰⁷ By comparison, in the U.S., it is denied only with a simple majority.

²⁰⁸ Maintains that there are 10 authorities in extended functions. Acknowledges how the current CPCCS has failed to comply with its functions (see section 662 of the annex).

No one should forget that the rule of law is not an abstract concept. Its safeguarding is closely linked to the preservation of all individual rights and freedoms, which must be guaranteed to all without discrimination based on race, religion, ethnicity, political affiliation, etc.

Unfortunately, this report shows that the dismantling of the rule of law has gone hand in hand with the deterioration of the political, civil, economic and social rights of Ecuadorians. This situation is demonstrated by the attempt to unbalance the system of weights and counterweights, giving prevalence to the executive function so that it can interfere in the rest of the powers of the state.

87. A consultation approach that seeks to avoid the ideal channels established for this type of amendment.

Despite the fact that the Constitution of the Republic is clear in establishing the mechanism through which constitutional amendments can be made, it is evident that the proposal made by the President of the Republic in the first questions is not appropriate through a popular consultation.

Certain amendments require participation for treatment and debate in the National Assembly. Considering that it does not have the support of the legislative body, we infer that it intends to deceive the Constitutional Court by trying to insert them through consultation with the electorate. The truth is that in identical cases such as those raised in questions 1 and 6, it has been the same Court that has determined the suitable methods of constitutional reform²⁰⁹.

²⁰⁹ Ruling No. 018-18-SIN-CC of August 01, 2018 analyzed several constitutional reforms among which was the possibility of providing the Armed Forces with the constitutional capacity to contribute to the internal security of the country (similar to what is intended to be consulted with question 1). The resolution observes that the amendment process with the participation of the National Assembly was the ideal one, however each point that was proposed to be amended, should be voted individually and not as a block; and it was due to this last observation that finally the unconstitutionality of the amendment was declared, as observed in the operative paragraphs of that sentence:

"3. In exercise of the power enshrined in Article 436 numerals 1 and 2 of the Constitution of the Republic, in accordance with Article 76 numerals 4, 5 and 6 of the Organic Law of Jurisdictional Guarantees and Constitutional Control, the unconstitutionality is declared by the form of the amendments to the Constitution of the Republic of Ecuador, approved by the National Assembly of Ecuador on December 03, 2015, with the exception of the constant amendments in Articles 2 and 4 that modified Articles 114 and 144 of the Constitution of the Republic, by virtue of the fact that they were repealed by effect of the promulgation of the results of the referendum and popular consultation carried out on February 4, 2018, in Official Gazette Supplement No. 180 of February 14, 2018. (...)

5. In exercise of the powers provided for in Article 436 numerals 1 and 6 of the Constitution of the Republic, it dictates the following jurisprudential rule, which shall be in force until the National Assembly regulates the procedure for the approval and voting of constitutional amendments of initiative of the National Assembly: In the processing of the draft constitutional amendment of initiative of the National Assembly, provided for in Article 441 numeral 2 of the Constitution of the Republic, the amendment vote by the National Assembly shall be carried out under the principle of democratic deliberation, with respect to each of the proposed articles, being prohibited the voting by block of the proposal."

In sentence No. 4-19-RC/19, the Court already resolved the issue regarding the elimination of the Council of Citizen Participation and Social Control (similar to what is now intended with question 6 of the popular consultation). Textually, it observed that the popular consultation was not the ideal constitutional means to implement this amendment, as can be read in the following lines:

Keeping coherence with the precedent pronouncements of the Court, it should ratify them and deny the possibility of consulting the people on certain issues.

VIII. Conclusion

88. This report highlights the serious violations by the Ecuadorian State of the founding principles and essential values of the International Community and Human Rights Organizations²¹⁰.

International current affairs demonstrate the international community's interest in actively engaging on these issues in order to anticipate and prevent the development of partnerships with states that do not share or violate the fundamental rights and freedoms that are at the core of democracies.

The attention paid by the international community is also a favourable factor for the citizens of partner states, respect and development of the fundamental values of our democracies.

"V. Opinion.- 45. In merit of the foregoing, administering constitutional justice and by mandate of the Constitution of the Republic of Ecuador, the Plenary of the Constitutional Court rules: 45.1. In general, the reform procedure, established in art. 442 of the Constitution is apt for the issuance of the norms contained in the project under review, whose main topics were summarized in paragraphs 5 to 7 above, aimed at the elimination of the Council of Citizen Participation and Social Control, the redesign of the Legislative Function to make it bicameral; and the relocation of the State Attorney General's Office outside the Judicial Function to give it more autonomy."

²¹⁰ Fundamental rights and freedoms protected by the European Charter of Fundamental Rights, the European Convention on Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Social, Economic and Cultural Rights, the Universal Declaration of Human Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Summary of Repeated and Systematic Human Rights Violations in Ecuador



Presented by:

Colectivo Europeo de la Diversidad Ecuatoriana (CEDE) - Spain

Norwegian Forum for Democracy and Rights in Ecuador (NOFEC) - Norway

Association des Migrants Latino-Américains en France (ALMA) - France

Asociación por las Libertades en Iberoamérica y los Derechos Humanos (ALI-HUMA) - Spain

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I. Introduction

This updated report addresses the critical situation in Ecuador during 2023. Focused on highlighting violations of the rule of law and fundamental rights, this detailed analysis serves as a denunciation to the international community, including governments, human rights bodies, and relevant entities.

Ecuador has faced a multidimensional crisis: social, economic, political and security, where the guarantee of the rule of law, essential for the balance of state powers, has been seriously affected. This problem has resulted in a constant threat to human rights and citizens' freedoms.

This document follows on from the December 2022 report,¹ which we recommend reading, updating, and highlighting critical developments.

Since January 2023, we have observed a worrying evolution in the situation in the country, which was already critical at the end of 2022. The aim is to report and denounce these developments, providing an objective and up-to-date overview for international and local actors.

Key findings since the last report include increased violence, persistent political persecution, challenges in the administration of justice and continued violations of freedom of expression. These issues will be developed in detail in the following sections, emphasising the urgent need for international attention and action.

Since December 2022, we have noted some worrying dynamics that persist and, in some cases, have intensified. Despite international calls for reforms and improvements, the situation in several respects has worsened. Among the most salient findings are:

- Increased violence and instability: There has been an increase in the levels of violence, both in terms of political and criminal violence. This phenomenon has affected the daily lives of citizens and further weakened the country's democratic institutions.
- Persistence of political persecution: Political persecution practices, which were already a concern in 2022, have continued and even intensified in some cases. This has led to a climate of fear and self-censorship among political opponents and human rights activists.

¹ Report on the situation of serious violations of the rule of law and of fundamental rights and freedoms in Ecuador (2022, 03 December). <https://github.com/huayra/nofec.no/raw/master/static/images/Report%20on%20the%20situation%20of%20serious%20violations%20of%20the%20rule%20of%20law%20and%20of%20fundamental%20rights%20and%20freedoms%20in%20Ecuador.pdf>.

- Challenges in the administration of justice: Judicial independence remains an area of major concern. Reports indicate continued political interference in the judicial system, affecting the fairness and effectiveness of justice.
- Violations of freedom of expression: Despite previous criticisms, freedom of expression remains under threat, with reports of censorship and attacks on journalists and media outlets.

These and other issues will be developed in more detail in the following sections, providing a comprehensive overview of the current situation in Ecuador and highlighting the urgent need for international attention and action.

II. Rupture of the rule of law and political crisis

A. Political crisis and desinstitutionalization

Corruption in Ecuador's governmental strata has seriously eroded public confidence in the country's institutions. This loss of faith in the system has been exacerbated by a lack of transparency and the progressive desinstitutionalization of the state, undermining the foundations of Ecuador's democracy.

In January 2023, the digital media "LA POSTA" uncovered a corruption scandal that had a profound impact on the country's power structures. The investigation revealed a corruption network allegedly led by Danilo Carrera, close to President Guillermo Lasso, involving high-ranking officials and businessmen.

On January 9th, leaked audios from Leonardo Cortázar, a senior government official, suggest the existence of payments in exchange for political favours and appointments in state companies.² Subsequently, on January 16th, new audios were released implicating Hernán Luque and Rubén Cheres in acts of corruption in National Electricity Corporation and FLOPEC, a state oil company,³ also suggesting the involvement of Iván Correa Calderón, Secretary of Public Administration, and Oswaldo Rosero, manager of FLOPEC.

² Editorial Staff (2023, 1 January). Complaint about the corruption case 'El Gran Padrino' splashes the family of President Guillermo Lasso. NTN24. <https://www.ntn24.com/noticias-actualidad/denuncia-sobre-el-caso-de-corrupcion-el-gran-padrino-salpica-a-la-familia-del-presidente-guillermo-lasso-405390>.

³ Loaiza, Y. (2023, 31 March). Ecuador: Ruben Cherez, friend of Guillermo Lasso's brother-in-law and linked to Albanian mafia, murdered. Infobae. <https://www.infobae.com/america/america-latina/2023/03/31/ecuador-asesinaron-a-ruben-cherrez-amigo-del-cunado-de-guillermo-lasso-y-vinculado-a-la-mafia-albanesa/>.

The government's reaction was immediate, with President Lasso requesting the Attorney General's Office to locate and arrest Luque and Cherres.⁴ The National Assembly, given the seriousness of the situation, formed a specialised commission to investigate the case.⁵

On January 26th, the commission, led by legislators Viviana Veloz and Mireya Pazmiño, began its work, broadening its investigation to include Danilo Carrera's possible connections to drug trafficking and the Albanian mafia. Tragically, on 31 March, Rubén Cherres was murdered in suspicious circumstances.⁶

On May 10th, a commission report recommended impeachment proceedings against President Lasso for breach of duty and complicity in state embezzlement.⁷ Lasso, facing the possibility of impeachment, dissolved the National Assembly and called early elections, using the "cross-death" mechanism provided for in the Constitution.

In July, Andersson Boscán and Mónica Velasquez, key journalists in the investigations, fled to Argentina and later to an unknown location, citing threats to their safety and accusing the government of persecution.⁸

Boscán's revelations about the lives of Fernando Villavicencio and General José Luis Erazo, and their connection to the "León de Troya" case linking President Lasso to Albanian criminal organisations, add a further layer of complexity and gravity to the situation.⁹

In the same context, Boscán denounced that state intelligence bodies knew that the lives of Boscán, Villavicencio, and Erazo were in danger and pointed out obscure details about the death of former legislator Fernando Villavicencio, and a possible attempt on the life of General José Luis Erazo of the National Police. Both were linked to the León de Troya case, which directly linked President Lasso to Albanian criminal organisations.¹⁰

⁴ Sotalín, K. (2023, 16 January). Guillermo Lasso orders Hernán Luque and Rubén Cherres to be located for investigation for alleged corruption. *El Comercio*. <https://www.elcomercio.com/actualidad/politica/guillermo-lasso-localizar-hernan-luque-corrupcion-cherres>.

⁵ Press room (2023, 18 January). Assembly forms occasional commission to investigate alleged corruption network in «El gran padriño» case. National Assembly of Ecuador. <https://www.asambleanacional.gob.ec/es/noticia/86612-asamblea-conforma-comision-ocasional-que-investigara>.

⁶ Editorial office (2023, 31 March). Rubén Cherres was murdered on Punta Blanca beach, Santa Elena. *El Comercio*. <https://www.elcomercio.com/actualidad/seguridad/ruben-cherres-punta-blanca-santa-elena.html>.

⁷ Editorial office and agencies. (2023, 10 May). Ecuador's Congress approves impeachment trial against President Lasso. *DW*. <https://www.dw.com/es/congreso-de-ecuador-aprue%20ba-juicio-pol%C3%ADtico-contra-presidente-lasso/a-65567870>.

⁸ Editorial Staff (2023, 2 August). Ecuador: Two journalists who investigated the president are forced to leave the country. International Federation of Journalists. <https://www.ifj.org/media-centre/news/detail/article/ecuador-dos-periodistas-que-investigaron-al-presidente-guillermo-lasso-se-ven-forzados-a-abandonar-el-pais>.

⁹ Jairala, J., Un café con J.J. (2023, 31 August). Andersson Boscán: The State knew through three channels about assassination attempts. *La Radio Redonda 99.3 FM*. <https://www.youtube.com/watch?v=BxPDLvpgIKs>.

¹⁰ Editorial office (2023, 29 August). Boscán: «The main threat against my life is the Lasso government». *Ecuador en Vivo*. <https://www.ecuadorenevivo.com/index.php/politica/item/166936-boscan-la-principal-amenaza-contra-mi-vida-es-el-gobierno-de-guillermo-lasso>.

On 30 August, lawyers for Erazo and another police officer implicated in the case applied to the Inter-American Commission on Human Rights for protection, alleging state persecution.¹¹

B. Role of the media in political polarization

1. Background

The media in Ecuador have played a crucial role in shaping the country's political and social landscape. Historically, these media have been strongly linked to specific economic and political interests, which has influenced their coverage and their relationship with the government and society in general.¹²

Over the last decades, the Ecuadorian media landscape has been dominated by private groups, many of which are linked to large economic and political conglomerates. These media groups have used their influence to negotiate with the state and defend their interests. In this sense, the media have played a significant role in shaping public opinion and the country's political dynamics.¹³

An important milestone in the relationship between the media and the government of Rafael Correa was the enactment of the Organic Law on Communication (OLC) in 2013. This legislation introduced a series of regulations that directly affected the relationship between the media and the government. The OLC was a response to concerns about private media concentration and its impact on democracy and freedom of expression, the radio electric spectrum was to be shared with public and community media. It obliged journalists and communicators to hold university degrees to practice the profession and dignified the work of cartographers. However, this law also generated controversy and was criticised by various sectors, including the media. It was argued that some provisions of the law could be used to restrict freedom of expression and censor media critical of the government.¹⁴

The law addressed issues such as media lynching, defining it as the concerted and repeated dissemination of information with the aim of discrediting a person or reducing his or her public credibility.

¹¹ Editorial office (2023, 1 January). José Luis Erazo and Rodney Rengel, investigators of the 'León de Troya' case, requested a precautionary measure from the IACHR for the State to give them protection. El Universo. <https://www.eluniverso.com/noticias/politica/jose-luis-erazo-y-rodney-rengel-investigadores-del-caso-leon-de-troya-pidieron-una-medida-cautelar-a-la-cidh-para-que-el-estado-les-de-proteccion-nota/>.

¹² Farinango, L. (2011, 29 April). Ecuador: quantitative opinion study on the political and media situation. Flacso Andes. <https://www.flacsoandes.edu.ec/agora/medios-de-comunicacion-en-la-vida-politica-de-los-ecuatorianos>.

¹³ Flores, R. (2022, 23 June). Subdirector de la CELAG: Crisis in Ecuador is the result of neoliberal policies. La Razón. <https://www.la-razon.com/mundo/2022/06/23/subdirector-de-la-celag-crisis-en-ecuador-es-el-resultado-de-las-politicas-neoliberales/>.

¹⁴ Editorial (2021, 8 November). Communications in Ecuador: between the seized media and a scenario of regulatory reform. Telesemana. <https://www.telesemana.com/blog/2021/08/11/las-comunicaciones-en-ecuador-entre-los-medios-incautados-y-un-escenario-de-reforma-normativa/>.

While this provision sought to protect the dignity and reputation of individuals, it also raised concerns about its possible use to silence legitimate criticism.

The OLC and the media situation in Ecuador reflect an ongoing tension between the need to ensure a free and objective press and attempts to regulate the media to protect other rights and social values. This historical context provides the basis for understanding the current relationship between media, government and society in Ecuador and is fundamental to understanding the current challenges in terms of press freedom and media pluralism. The OLC was repealed by Lenin Moreno in 2019.

2. Influence of the media on democracy and politics

The influence of the private media in Ecuadorian politics has been notable, especially in its representation of and response to the social and economic reforms promoted by progressive governments. This section examines how these media have impacted both public perception and national politics (Lizarzaburu & Sánchez, 2018).¹⁵

During Rafael Correa's governments, a series of reforms aimed at improving social and economic equity were implemented. However, media coverage of these reforms by the private media was often characterised by a critical or even hostile stance. These media focused their narratives on the challenges and setbacks of the reforms, rather than their achievements or positive impacts.

The private media in Ecuador have, in many cases, been aligned with specific economic and political interests. This has influenced the way they report and comment on the government and its policies. In several cases, they have favoured agendas that oppose progressive reforms, contributing to a climate of political polarisation.¹⁶

The influence of the media in shaping public opinion is significant. By presenting a biased view of government policies, the media has contributed to the formation of public opinion that may not fully reflect the reality of reforms and their effects on society. This has generated debates and controversies that go beyond the actual merits of the policies implemented.¹⁷

Media coverage has a direct impact on national politics. The way in which the media reports on the government and its policies can influence the popularity of political leaders, citizens' electoral decisions and, ultimately, the course of national politics.

¹⁵ Lizarzaburu, R. and Sánchez, R. (2018). «Chapter 5 - Private media and political power in Ecuador 2007-2016», in Communication, development and policy, ed. Natalia Aguiar Mariño and Nelson Medranda Morales. Quito: Editorial Abya-Yala. pp. 115-143. <https://books.scielo.org/id/yn8f6/pdf/aguiar-9789978104989-07.pdf>.

¹⁶ Rivadeneira, B. (n.d.) Top 10 media in Ecuador (2022). MC Comunicaciones. <https://mccomunicaciones.com.ec/top-10-medios-de-comunicacion-en-ecuador/>.

¹⁷ Rosas, D. (2018, 23 October). Communication in Ecuador for the sake of political change: current situation and perspectives. Dialoguemos. <https://dialoguemos.ec/2018/10/la-comunicacion-en-el-ecuador-en-aras-del-cambio-politico-situacion-actual-y-perspectivas/>.

This media influence has been a key factor in Ecuador's political dynamics, highlighting the importance of a diverse and balanced press for a healthy democracy.

3. Impact on public perception

The influence of the media in shaping public opinion in Ecuador has been and continues to be significant, particularly regarding its coverage of Rafael Correa, Correa's political coidearies and the legal processes associated with them. This section explores how media coverage has shaped public perception, especially in relation to former president Correa¹⁸ and his political allies.

Citizens, exposed to a partial version of reality, may form opinions based on incomplete or distorted information. This phenomenon is of particular concern in a democratic environment, where public opinion is central to political decision-making and governance.

In many cases, media coverage has contributed to a polarised political climate. Arguments and perceptions are based more on media narratives than on objective facts. The polarisation around Correa's political coidearies, exacerbated by the media, has been a key factor in Ecuador's political division, affecting the way citizens perceive political leaders and their policies.

The practice of lawfare, i.e. the use of legal proceedings for political ends, has been amplified by the media. In the context of Ecuador, this has manifested itself in the way the media has covered legal accusations and trials against Rafael Correa and his allies. Such coverage has often magnified the accusations, in many cases without solid evidence, influencing public perception and political debate. The way in which these legal proceedings have been reported has contributed to an atmosphere of mistrust and scepticism towards Correa.¹⁹

The media's influence on public opinion and politics in Ecuador, especially in relation to Correa's political coidearies and lawfare, raises serious questions about the state of democracy in the country. The media's ability to influence public opinion and political processes is a powerful reminder of the need for balanced and responsible journalism. Moreover, polarised media narratives can exacerbate divisions within society, creating an environment in which political disagreements become deeper and more persistent conflicts.²⁰

¹⁸ López-Jímenez, D. (2016, 1 October). The construction of public opinion in Ecuador based on political participation in social networks. *Obra Digital*. Number 11. <https://revistesdigitals.uvic.cat/index.php/obradigital/article/view/103>.

¹⁹ Milagro State University (2019, 18 November). Consensus building and social control. *Public Opinion*. Unit 3. https://sga.unemi.edu.ec/media/recursotema/Documento_2021101165839.pdf.

²⁰ Vasallo, G. (2021, 4 December). Rafael Correa: «With lawfare they have delayed history, but they will not be able to stop it». *Página 12*. <https://www.pagina12.com.ar/387054-rafael-correa-con-el-lawfare-han-demorado-la-historia-pero-n>.

C. Attacks on freedom of the press

The press freedom situation in Ecuador during 2023 has been alarming. Attacks and threats against journalists and other media professionals have been a recurring theme, which has generated great concern at the international level. Volker Türk, the United Nations High Commissioner for Human Rights, has expressed his concern about the increase in violence in Ecuador, including attacks and threats against political candidates, public figures, and journalists, urging the authorities to redouble their efforts to protect these individuals.²¹

As mentioned in the previous section, the case of Andersson Boscán, an Ecuadorian journalist, stands out in the context of the attacks on press freedom in Ecuador. Boscán and his wife, Mónica Velásquez, also a journalist, were forced to leave Ecuador due to serious threats against their lives. These threats arose in the context of their journalistic work, especially after an investigation entitled “El Gran Padrino” (The Great Godfather), which included the León de Troya case involving the brother-in-law of President Guillermo Lasso in a corruption and drug trafficking scheme. This report prompted an intensification of threats against them, including warnings from an Albanian mafia operative group with orders to try on their lives. The situation of Boscán and Velásquez adds to other cases of Ecuadorian journalists who have had to leave the country for similar reasons, underlining the critical situation of press freedom in Ecuador.²²

The case of Karol Noroña, who specialises in organised crime at the GK portal, and Lisette Ormaza, a journalist at Majestad Televisión, are additional examples of media professionals in Ecuador who have faced serious threats in 2023. These situations underline the increasing hostility and danger faced by journalists, especially those covering sensitive topics such as organised crime and government corruption. The forced departure of these journalists from Ecuador highlights not only the personal risk they face, but also the general erosion of press freedom in the country.

This report analyses the case of Alondra Santiago, a Cuban journalist based in Ecuador, as an example of the complexities and challenges facing press freedom in a context of political polarisation. Santiago has openly criticised political figures such as Guillermo Lasso and Lenin Moreno, former presidents of Ecuador, which has earned her verbal and physical attacks, as well as sexist, and xenophobic attacks on social networks. Her identification with leftist and feminist ideologies has intensified hostilities towards her, highlighting how political affinities can increase the risk to journalists in polarised environments.

²¹ Office of the UN High Commissioner for Human Rights (2023, 10 August). Commentary by the UN High Commissioner for Human Rights, Volker Türk, on the assassination of presidential candidate Fernando Villavicencio in Ecuador. <https://www.ohchr.org/es/statements/2023/08/comment-un-human-rights-chief-volker-turk-killing-presidential-candidate>.

²² Editorial office (2023, 25 July). Boscán and his wife urgently leave the country. La República. <https://www.larepublica.ec/blog/2023/07/25/boscan-y-su-mujer-abandonan-urgentemente-el-pais/>.

These incidents underline the urgent need for measures to protect journalists, regardless of their political positions, and to ensure freedom of expression in Ecuador, where diversity of opinion has become a risk factor for the safety and well-being of media professionals.

On 6 November 2023, representatives of journalists and freedom of expression defenders from Ecuador held a hearing at the Inter-American Commission on Human Rights (IACHR). They raised concerns about the adverse conditions facing journalism in Ecuador, characterised by episodes of violence, job instability and institutional challenges. During the hearing, César Ricaurte, director of Fundamedios and a conservative political figure, argued that between 2007 and 2017, journalism in Ecuador was subject to pressure from political power, which resulted in a more authoritarian model of government, weakening the media, and putting them in a vulnerable position.²³

Furthermore, it is essential to reflect on the criticism of the role of Fundamedios. This organisation, the leader of the delegation, is perceived by some groups as a defender of elitist interests and opposed to the policies of former president Rafael Correa. Of particular concern is the 2019 incident involving César Ricaurte, director of Fundamedios. Ricaurte was sentenced to 15 days in prison after pushing Jorge Jurado.²⁴ Former ambassador of Ecuador to Germany and Secretary of Water in Correa's government. This incident is particularly alarming as Jurado is an elderly person with a disability. Assaulting a person in this condition is an act that deserves to be strongly condemned, reflecting the need to maintain high ethical standards in any kind of interaction, especially in political or public contexts.²⁵

In this context, it is relevant to consider that during the period 2007-2017, although there were tensions between the government and the media, there were no reports of violent attacks against journalists as there have been in recent years. This suggests that the situation has evolved and that the challenges facing journalism and freedom of expression in Ecuador are increasingly serious. In fact, in 2023 alone, nine journalists had to go into exile because of threats to their physical and professional integrity. Karol Noroña, who was at the hearing, explained that most of them chose not to report their cases due to a lack of trust in the state.²⁶

²³ Editorial Office (2023, 7 November). Journalists exposed the lack of protection by the Ecuadorian State at the IACHR. El Universo. <https://www.eluniverso.com/noticias/politica/periodistas-expusieron-en-la-cidh-la-falta-de-proteccion-del-estado-ecuatoriano-nota/>.

²⁴ Redaction (2019, 29 June). Fifteen days in prison against the director of Fundamedios, César Ricaurte, for shoving a former ambassador of Correa. La República. <https://www.larepublica.ec/blog/2019/06/29/quince-dias-de-prision-contra-el-director-de-fundamedios-cesar-ricaurte-por-empujar-a-exembajador-correista/>.

²⁵ Bravo, M. (2019, 1 July). Fifteen days in prison against the director of Fundamedios, César Ricaurte, for shoving a former Correista ambassador. Confirmado.net. <https://confirmado.net/2019/07/01/el-doble-rasero-de-la-prensa-mercantilista-en-ecuador-o-marco-antonio-bravo/>.

²⁶ Loaiza, Y. (2023, 7 November). The complaint of an exiled Ecuadorian journalist before the IACHR: «Those who wanted to kill me are protected by the State». Infobae. <https://www.infobae.com/america/america-latina/2023/11/07/un-periodista-ecuatoriana-exiliada-hablo-ante-la-cidh-quienes-quisieron-matar-me-son-protegidos-por-el-estado/>.

The IACHR questioned the Ecuadorian government on measures taken to ensure an end to impunity and the restoration of confidence so that journalists can report fully and impartially and return from exile to their country. IACHR Vice-Chair, Roberta Clarke, asked specifically whether the government accepted the perception of impunity and what measures had been taken in this regard. Roberta Clarke highlighted the concern for the 9 journalists who had to leave Ecuador between April and November 2023 due to death threats from organised crime. Of these journalists, at least six remain in exile. As of November 2023, 220 attacks against journalists had been registered in Ecuador, including five bombs sent to journalists in March, which left one person injured.²⁷

During 2023, significant attacks against the press were recorded. These collective incidents reflect an increasingly hostile environment for freedom of expression in Ecuador, where the safety of journalists is seriously threatened. This is evidence of an urgent need for stronger protection measures and international attention focused on the human rights and press freedom situation in the country.

D. Critical evaluation of government responses to corruption scandals

The government's handling of corruption scandals in Ecuador, especially in the context of the León de Troya case involving Danilo Carrera and other officials, has been the subject of criticism and questioning. The government's response, while swift in some respects, such as the request for arrests, was perceived by many as a strategy to divert attention from the deeper implications of corruption at the highest levels of power.

President Guillermo Lasso's decision to dissolve the National Assembly and call for early elections, although in line with constitutional mechanisms, has been critically interpreted as an attempt to evade imminent impeachment. This manoeuvre, known as "cross-death", was seen by opposition sectors and political analysts as a tactic to escape accountability and growing demands for accountability. Such an action not only exacerbated the political crisis, but also raised serious questions about institutional stability and the health of Ecuador's democracy.

The early presidential elections in Ecuador, in this context, were not simply a regular electoral process. Rather, they became a political battleground, where the legitimacy and effectiveness of the Lasso government was assessed. These elections were widely interpreted as an effort by the president to revalidate his mandate amidst significant scandal, generating heated debate about the manipulation of the democratic process.

²⁷ Editorial Staff (2023, 6 November). Impunity in crimes against journalists, a state "sin" in Ecuador. Ecuador Chequea. <https://ecuadorchequea.com/impunidad-en-crimenes-contra-periodistas-un-pecado-estatal-en-ecuador/>.

The political climate during these elections was marked by a deep distrust of the government and its intentions. The call for early elections, far from being a solution to the crisis, was seen by many as indicative of deepening political instability and the erosion of democratic norms. This raised serious questions about the capacity of Ecuador's political system to manage internal crises and maintain public confidence in its institutions.

E. Retrospective of the electoral process in Ecuador in 2023

1. Ecuador's 2023 electoral crisis: irregularities, intimidation and unprecedented violence

The year 2023 in Ecuador was marked by an electoral process characterised by irregularities, acts of intimidation and an unprecedented level of violence. This electoral period cast doubts on the integrity and reliability of the Ecuadorian democratic system. The wave of assassinations and attacks against candidates and political leaders, which amounted to 23 murders and 47 attacks between January and August, further undermined the confidence and stability of the electoral process.

These acts of violence, which reflected the intrusion of organised crime into politics, generated an atmosphere of fear and reticence among participants in the political process. The seriousness of these incidents was a clear indication of the vulnerability of political life in Ecuador and the detrimental influence of organised crime.

The early elections took place against a backdrop of growing tension and mistrust. The first round was held on 20 August and the second round on 15 October 2023. These elections were called following President Guillermo Lasso's decision to dissolve the National Assembly through the constitutional mechanism of "cross-death".²⁸

The atmosphere in which the elections took place was marked by anxiety and concern. Candidates and voters not only faced the challenge of expressing their political preferences, but also of doing so in an environment threatened by violence and manipulation. The integrity of the electoral process was compromised not only by acts of violence, but also by the general perception that the elections were a ploy to divert attention from the deeper problems facing the nation.

In retrospect, the 2023 elections in Ecuador represented a critical moment, raising fundamental questions about the robustness of democratic institutions and the country's ability to overcome the challenges of corruption, violence, and political instability.

²⁸ Editorial Staff (2023, 17 May). President Guillermo Lasso decrees the dissolution of Ecuador's National Assembly and calls for elections. BBC News World. <https://www.bbc.com/mundo/noticias-america-latina-65623515>.

The way in which citizens and the international community responded to these events was crucial for the future of democracy in Ecuador.

2. Wave of political violence: assassinations of leaders during the electoral period in Ecuador

During 2023, Ecuador was rocked by a wave of political assassinations that shocked the country and triggered widespread indignation and repudiation. These crimes not only highlighted the alarming situation of violence and insecurity in Ecuador, but also the dangerous infiltration of organised crime into politics.

Agustín Intriago, the mayor of Manta, was brutally murdered on 23 July 2023. This crime, perpetrated by hired assassins on a motorbike during a visit to a sewage works, not only claimed Intriago's life but also that of a sportswoman who accompanied him, leaving two other people injured. Intriago had previously warned about the growing security problems in his city, especially in relation to drug trafficking.²⁹ The following day, former president Guillermo Lasso established a state of emergency in the province of Manabí, province of Los Ríos and the city of Durán in the province of Guayas.

On the other hand, the assassination of Fernando Villavicencio, a journalist, former assembler, and presidential candidate, on 9 August 2023, marked another flashpoint in Ecuador's political violence. Villavicencio was attacked by a hitman who shot him after leaving a political rally in Quito, injuring around 40 people, including several police officers.³⁰ This attack sparked international condemnation, including from UN Secretary General Antonio Guterres and High Commissioner for Human Rights Volker Türk, who pointed to these acts as a serious threat to democracy.³¹

The ineffectiveness of the security system surrounding Villavicencio has led his family to hold the Ecuadorian state responsible for his death. In addition, his murder has become embroiled in political controversy, with unfounded accusations directed at specific sectors and without concrete evidence, increasing polarisation and hatred in the country. Presidential candidate Luisa González, from Rafael Correa's political movement, condemned these acts and called for a serious and impartial investigation.³²

²⁹ Editorial Staff (2023, 24 July). Agustín Intriago, the popular mayor of Manta, and a young footballer are murdered in Ecuador. BBC News World. <https://www.bbc.com/mundo/articles/cndk24k17y7o>.

³⁰ Alonso, J. (2023, 10 August). Fernando Villavicencio Murdered: 3 Keys to Understanding the Wave of Violence Rocking Ecuador. BBC News World. <https://www.bbc.com/mundo/articles/c6pvjdy153mo>.

³¹ United Nations (2023, 10 August). Ecuador: UN condemns murder of presidential candidate Fernando Villavicencio and calls for investigation into crime. UN News. <https://news.un.org/es/story/2023/08/1523337>.

³² Agency EFE (2023, 17 August). Correa candidate promises to create a commission to investigate Villavicencio's murder. Swissinfo. <https://www.swissinfo.ch/spa/elecciones-ecuadorcandidata-corre%C3%ADsta-promete-crear-una-comisi%C3%B3n-para-investigar-asesinato-de-villavicencio/48743698>.

González herself reported threats against her life and accepted military protection offered by the Lasso government. Tension escalated with the arrest of individuals armed with grenades, although the police did not confirm a conspiracy against González. Subsequently, an audiotape was revealed implicating one of those arrested in a plot to assassinate the candidate, prompting the attorney general's office to open an investigation with no results to date.³³

In addition, many analysts have pointed out that the murder of Fernando Villavicencio and the subsequent wave of hatred promoted by certain media sectors have had a significant impact on the Ecuadorian political landscape, particularly in the 2023 presidential elections. Luisa González, who was considered the favourite to win in the first round, was negatively affected by this climate of violence and polarisation. Analysts suggest that the fear and distrust generated by these events, together with the intense disinformation and defamation campaign, played a crucial role in the decline of her popular support. This situation highlights how political violence and media manipulation can significantly alter the course of democratic processes, influencing electoral results and affecting public perception of candidates and their proposals. This phenomenon not only undermines democracy, but also raises serious questions about freedom of expression and the responsibility of the media in creating an informed and balanced political environment.

These events illustrate the depth and complexity of Ecuador's security crisis, highlighting the urgent need to address both political violence and the infiltration of organised crime into the public sphere. The response of the state and the international community to these challenges will be crucial to guarantee the country's stability and democratic integrity.

3. Executions in prison: the fatal fate of the allegedly executed responsible in the Villavicencio case

Following the murder of Fernando Villavicencio, seven individuals identified as the perpetrators of the crime were imprisoned. However, in a surprising and alarming twist, they were found dead in prisons in Guayaquil and Quito. On 7 October 2023, six Colombian nationals implicated in the crime and detained in the Guayaquil penitentiary were found hanged. On the same day, José Montaña, an Ecuadorian national accused of facilitating the logistics for the assassination, was found in similar circumstances in the Inca prison in Quito.³⁴

These deaths raised suspicions of possible obstruction of the investigation, especially considering that the United States had shortly before offered a reward for information on the mastermind of the crime

³³ Newsroom (2023, 18 September). Luisa González files a complaint with the Public Prosecutor's Office for an alleged plot to assassinate her. Infobae. <https://www.infobae.com/america/agencias/2023/09/18/luisa-gonzalez-presenta-ante-la-fiscalia-una-denuncia-por-presunto-plan-para-atentar-contra-ella/>.

³⁴ Quesada, J. (2023, 8 October). Purge in Ecuador's police leadership after the murder in prison of seven people implicated in the death of Fernando Villavicencio. El País. <https://elpais.com/internacional/2023-10-08/purga-en-la-cupula-policial-de-ecuador-tras-el-asesinato-en-prision-de-siete-implicados-en-la-muerte-de-fernando-villavicencio.html>.

against Villavicencio. The Ecuadorian Prosecutor's Office opened an investigation into these deaths, questioning why the transfer orders for the prisoners were not executed by the relevant authorities.

On 9 October, a few days before the second round of the elections, the Prosecutor General's Office revealed a shocking statement: a witness in advance testimony narrated the preparations and amounts offered by the masterminds.³⁵ Christian Zurita (Fernando Villavicencio's replacement for the 2023 presidential elections) also stated on his social networks that the witness had affirmed that "those responsible for the murder of Fernando Villavicencio is the Correa government"³⁶ and that the witness was "the only witness they failed to kill". This accusation was immediately refuted by Correa himself and his political movement on their respective social media platforms.³⁷

This testimony came a few days before the second round of the presidential elections that took place on October 15, 2023, which according to statistics and the results of the first round (August 20, 2023), would have been won by Luisa González, candidate of the Revolución Ciudadana, who obtained 33.61% of the votes, against Daniel Noboa, candidate of the Alianza Acción Democrática Nacional, who obtained 23.47% of the votes.

In the turbulent political atmosphere surrounding the 2023 presidential elections in Ecuador, the murder of Fernando Villavicencio and the subsequent deaths of his alleged killers in suspicious circumstances became a focal point of political manipulation. As in the first round, these events were used strategically to influence public opinion and damage the image of the political movement led by Rafael Correa. The disturbing succession of extrajudicial executions, presumably orchestrated by state actors, points to a calculated attempt to discredit, and weaken the candidacy of Luisa González of the Revolución Ciudadana movement.

These acts, far from being mere coincidences, appear to be part of a broader strategy aimed at influencing electoral outcomes. The use of scare tactics and disinformation to shape public perception and the media narrative against a specific political group reveals a disturbing erosion of democratic principles and the rule of law. The killing of the alleged perpetrators of the Villavicencio crime, in circumstances that point to extrajudicial executions, not only raises serious questions about justice and state accountability, but also reflects the use of violence and intimidation as political tools.

³⁵ Prosecutor General's Office. (2023, 8 October). #In relation to the closing of the fiscal investigation into the alleged murder of former presidential candidate Fernando V., #FiscalíaEc reports (Image attached). X. https://twitter.com/FiscaliaEcuador/status/1711206837872214079?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwtr%20m%5E1711206837872214079%7Ctwgr%5E48a53f9e08ad53ca8581a13b509f38e0be5848c3%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fwww.%20primicias.ec%2F-noticias%2Fseguridad%2Fcaso-villavicencio-fiscalia-sicarios-ecuador%2F

³⁶ Zurita, C. (2023, 9 October) [@christianzr] #Urgente: Advance testimony of the only witness they failed to kill (and who was protected) pointed out under oath that those responsible for the murder of Fernando Villavicencio is the "Correa government" ... (Post). X. <https://twitter.com/christianzr/status/1711210571104669733>.

³⁷ Correa, R. [@MashiRafael] (2023, 9 October). DIFUNDE. We told you: Villavicencio was murdered, the preliminary investigation is delayed for a month, all the hitmen are killed except one.... #YaNoNosEngañan @Pontifex_es @CIDH. (Repost with quote). X. https://twitter.com/MashiRafael/status/1711213929165189169?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwtr%20m%5E1711213929165189169%7Ctwgr%5E48a53f9e08ad53ca8581a13b509f38e0be5848c3%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fwww.%20primicias.ec%2F-noticias%2Fseguridad%2Fcaso-villavicencio-fiscalia-sicarios-ecuador%2F

This abuse of state power and manipulation of tragic events for political ends underlines the urgent need for an impartial and transparent investigation and a critical examination of democratic practices in the country.

4. Urgent action on extrajudicial killings: intervention by the UN Special Rapporteur

Faced with the alarming situation of extrajudicial executions in Ecuador, particularly in the context of recent political and electoral events, human rights organisations have taken an active stance. Recognising the gravity of the circumstances and the urgency of addressing these abuses, we have sent a request to the UN Special Rapporteur on extrajudicial, summary, or arbitrary executions, asking for immediate intervention. This action is based on the worrying lack of adequate and transparent investigations into the deaths of persons deprived of their liberty in the prisons of Guayaquil and Quito.

The request emphasises the need for an independent investigation in accordance with international standards, following the 2016 Minnesota Protocol on the Investigation of Potentially Unlawful Deaths.³⁸ This protocol is a crucial instrument to ensure that investigations of suspicious deaths are conducted in a thorough, systematic, and objective manner, particularly in contexts where the impartiality and independence of local authorities may be compromised.

On October 20, 2023, the UN Special Rapporteur on extrajudicial, summary, or arbitrary executions sent an urgent communication to the Ecuadorian State, expressing his concern about the possible involvement of state agents and the lack of adequate investigations, highlighting the need for exhaustive and transparent investigations, in accordance with international standards, to avoid impunity in the case of the murder of Villavicencio and the deaths of the suspects in custody.³⁹

The government's response of December 21, 2023, to the complaint is disappointing.⁴⁰ Instead of specifically addressing in detail the serious allegations related to the case of Fernando Villavicencio and the suspects killed in state custody, it merely offers empty generalities. The lack of detail in the investigations is alarming and what is even more worrying is the total absence of any acknowledgement of errors or failures in the handling of these cases. Although the government expresses its commitment to justice and human rights, concrete actions are conspicuous by their absence, which can be considered a significant omission.

³⁸ Office of the United Nations High Commissioner for Human Rights (2017). The Minnesota Protocol on the Investigation of Potentially Unlawful Deaths (2016). https://www.ohchr.org/sites/default/files/Documents/Publications/MinnesotaProtocol_SP.pdf.

³⁹ Office of the United Nations High Commissioner for Human Rights (2023, 20 October). Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions. <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunication-File?gId=28561>.

⁴⁰ Ministry of Foreign Affairs and Human Mobility - Permanent Mission of Ecuador to the UN Geneva (2023, 21 December). Response of the Republic of Ecuador to Communication No. UA ECU 4/2023 of the Special Rapporteur on extrajudicial, summary or arbitrary executions. Note No. 4-7-422/2023. <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=37892>.

Moreover, the response deviates from the central theme of the complaint by focusing on general policies against organised crime and international cooperation. In short, the government's response is far from satisfactory and raises serious questions about its transparency and accountability.

5. Limitations on electoral participation: more than 13 million Ecuadorians eligible but without access to telematic voting for residents abroad

The Collective of Ecuadorians Living Abroad expressed concern about the absence of the National Electoral Council (NEC) at a public hearing convened on May 29, 2023. The hearing was intended to discuss the impact of the implementation of telematic voting in overseas constituencies during the early presidential and legislative elections of 2023. Despite the importance of this meeting, the absence of NEC representatives was notable and considered as a lack of interest in listening to the legitimate concerns of Ecuadorians living abroad. This situation led the Collective to formalise its complaint to the Consejo de Participación Ciudadana y Control Social for the violation of their right to participation.⁴¹

On August 20, 2023, Ecuador experienced an election day marked by significant technological and administrative challenges. Although the polls were open from 7:00 a.m. to 5:00 p.m., the process was marred by alleged cyber-attacks on the digital voting platform and accusations of fraud, especially in overseas constituencies.⁴² This tumultuous context affected close to 400,000 Ecuadorian voters living abroad, whose votes were annulled by NEC due to detected irregularities.

The leap towards digitalisation, represented by the introduction of telematic voting, was a milestone in Ecuador's electoral history. Although a pilot scheme had been implemented in February 2023 in areas of low population density, the widespread implementation of telematic voting in the October elections proved to be problematic. Lack of thorough testing and limited consultation with stakeholders resulted in several shortcomings that undermined confidence in the election results.

From the beginning of this process, the organisations that authored this report played a key role, gathering information directly from those affected and actively participating in each electoral stage. In the face of ambiguity and lack of guidance from the NEC, these organisations set up assistance centres and offered guidance by telephone, as well as providing an online form to report incidents.

⁴¹ Editorial office (2023, 30 May). Collective of Ecuadorian migrants will denounce NEC for denying the right to participate in matters of public interest "telematic voting". Tercera Información.es. <https://www.tercerainformacion.es/articulo/30/05/2023/colectivo-de-migrantes-ecuatorianos-denunciara-al-cne-por-negar-el-derecho-a-participar-en-asuntos-de-interes-publico-voto-telematico-en-el-exterior/>.

⁴² Editorial Staff (2023, 26 August). NEC defines the nullity of the elections in the three constituencies abroad. Correo newspaper. <https://diariocorreo.com.ec/87654/portada/cne-define-nulidad-de-las-elecciones-en-las-tres-circunscripciones-en-el-exterior>.

However, many Ecuadorians in Europe reported significant difficulties that restricted their right to vote:

- **System Errors:** Voters reported glitches in online voting, such as receiving erroneous notifications that they had already voted or faced system freezes during the process.
- **Connection problems:** Despite stable internet connections, many faced slowness and outages on the platform, persisting even after trying recommended solutions.
- **Lack of Verification Codes:** A considerable number of voters did not receive the necessary code to complete their vote, generating frustration and mistrust.
- **Obstacles for Overseas Voters:** Many found the voting platform inaccessible or unavailable in their regions.
- **Inadequate technical support:** Support channels proved ineffective, with reports of invalid emails and saturated phone lines.

These problems not only raised doubts about the legitimacy of the election results, but also highlighted the urgent need to review and improve the telematic voting system to ensure fair and transparent elections in the future.

The second round of the presidential elections in Ecuador, held on October 15, 2023, marked a significant change in the voting method compared to the first round. After facing multiple problems with the telematic voting system during the first round, especially for voters abroad, NEC decided that the second round would be held in person.

This change from telematic to face-to-face voting was a response to the difficulties and criticisms faced during the first round, seeking to restore confidence in the electoral process and to guarantee the integrity of the results.

F. Obstruction of citizen oversight and controversial removal of CCPSC members

Before detailing the events that led to the dismissal of the president of the Council for Citizen Participation and Social Control (CCPSC) in October 2023, it is essential to review some crucial background information. This background, set out in detail in our December 2022 report (pages 78-84),

contextualises the deep institutional crisis that Ecuador is going through, affecting the dynamics between the CCPSC and the Constitutional Court, fundamental entities for the balance of powers and the safeguarding of rights in the country.⁴³

The creation of the CCPSC in 2008, according to the Ecuadorian Constitution, was intended to foster citizen participation and exercise social control over public entities, as well as to designate authorities in various state functions. However, this purpose was altered when, in 2018, the original CCPSC was replaced by a “Transitory CCPSC” through a popular consultation lacking constitutional oversight. This transitional body exceeded its powers by dismissing members of the Constitutional Court and appointing replacements, provoking an institutional conflict.

The scenario was further complicated in 2019 by Constitutional Court Ruling 2-19-IC/19. The ruling sought to protect the actions of the Transitory CCPSC that had appointed its members, thus limiting the powers of future CCPSC councillors, and preventing them from reviewing the dismissal and appointment of authorities in various state functions. This chain of events has led to severe questioning of the legitimacy, impartiality, and autonomy of both institutions, setting a worrying precedent in Ecuador’s democratic context.

1. Court order for citizen oversight: Betty Moreira case, September 13, 2023

The purpose of the citizen oversight body, established by court decision, was to analyse and assess the administrative actions related to the dismissal and appointment of Constitutional Court judges carried out by the Transitional CCPSC. This oversight was processed by the CCPSC in accordance with the regulations in force. Despite the invitation for public participation, the constitution of the *veeduría* (oversight) provoked a negative response from the Constitutional Court, which highlights the tension between the institutions involved.⁴⁴

Ecuador’s Constitutional Court, in a controversial move, issued a warning on September 5, 2023, to the CCPSC. The warning focused on the mandate to refrain from taking any action contrary to interpretative opinion 2-19-IC/19. This opinion established a shield to the decisions taken by the Transitional CCPSC, which had appointed the current members of the Court. This interpretative approach, intended to apply to the rules, was used in an unusual way to shield the proceedings of the Transitional CCPSC. This situation has raised criticism and concerns about the Court’s impartiality, as it appears to defend and legitimise the decisions of those who appointed it, rather than objectively interpreting the norms. The action has been seen by some analysts and sectors of society as a

⁴³ Report on the situation of serious violations of the rule of law and fundamental rights and freedoms in Ecuador (2022, 03 December), pp. 78-84. <https://github.com/huayra/nofec.no/raw/master/static/images/Report%20on%20the%20situation%20of%20serious%20violations%20of%20the%20rule%20of%20law%20and%20of%20fundamental%20rights%20and%20freedoms%20in%20Ecuador.pdf>.

⁴⁴ Editorial Staff (2023, 5 September). Another CCPSC controversy: the Constitutional Court calls it to account. Firsts. <https://www.primicias.ec/noticias/politica/veeduria-cpccs-transitorio-corte-constitucional/>.

limitation on the autonomy and the capacity of the current CCPSC for self-tutelage, which could have significant implications for the balance of powers and judicial independence in Ecuador.

The CCPSC reacted on September 6, 2023, to the Constitutional Court's notification on citizen oversight. Through an official response, the CCPSC underlined that the initiative of the *veeduría* (oversight) did not come from the plenary of the Council, but originated as an expression of citizens' democratic exercise, protected under article 204 of the Constitution of Ecuador. This article supports the right of citizens to oversee the acts of public power, emphasising citizen participation in the control and oversight of government activities.

The CCPSC defended that the constitution of this *veeduría* (oversight) did not represent a political or legal decision that could infringe the Constitutional Court's interpretative ruling but was an administrative action in line with the powers of social control. This position was challenged internally, as two councillors of the CCPSC submitted a communication to the Court, claiming that the *veeduría* (oversight) was a unilateral initiative of the CCPSC president. However, this argument was refuted based on the regulation on citizen oversight, which clearly states that citizen-initiated oversight does not fall under the jurisdiction of the CCPSC plenary but is managed by the Sub-coordination of Social Oversight.

On September 13, 2023, the Constitutional Court of Ecuador, with a majority of eight votes in favour and one concurring vote, decided to initiate the follow-up phase of ruling 2-19-IC/19,⁴⁵ a resolution that raised a wave of controversy and criticism. This decision was interpreted by many political and social sectors as an attempt by the Court to interfere in the functions of the CCPSC and a possible threat of dismissal of its members, elected by popular vote in February 2023.

The Court summoned the CCPSC to a public hearing on September 25, 2023, with the aim of verifying the Council's compliance with the ruling. However, the judicial manoeuvre was seen by many as an effort to preserve the decisions made by the Transitional CCPSC, which appointed the current judges of the Court, calling into question the impartiality and independence of the Ecuadorian judicial system.

Faced with this scenario, three CCPSC councillors appealed to the Inter-American Commission on Human Rights (IACHR), requesting precautionary measures. They alleged that the Constitutional Court had violated their rights to participation, effective judicial protection, and equality. This petition was based on concerns that the Court was shielding the decisions of the Transitory CCPSC and obstructing the exercise of citizen oversight, in contravention of an Inter-American Court ruling that prohibits the removal of elected officials by popular vote.⁴⁶

⁴⁵ Constitutional Court of Ecuador (2020, 14 December). Interpretative Opinion 2-19-IC/19. <https://international.vlex.com/vid/ecuador-corte-constitucional-dictamen-874196550>.

⁴⁶ Inter-American Court of Human Rights (2020, 8 July). *Petro v. Colombia* Judgment (2020). Series C No. 406. https://www.corteidh.or.cr/docs/casos/articulos/seriec_406_esp.pdf.

On October 2, 2023, a significant twist in the saga of citizen oversight in Ecuador occurred when the Court of Justice of Manabí annulled the formation of the ombudsman's office to investigate the appointment of Constitutional Court judges by the Transitory CCPSC. This decision of the Manabí Court reversed the previous ruling of the Montecristi judge, Leiver Patricio Quimís Sornoza, and declared inadmissible the action for protection initiated by the citizen Betty Moreira.⁴⁷

This ruling by the Manabí Court of Justice provoked consternation among various sectors, as it appeared to undermine the constitutional right of citizens to exercise *veeduría* (oversight) and oversight over acts of public power. The elimination of the *veeduría* (oversight) was seen by many as an act that restricted transparency and accountability at a critical moment for Ecuadorian democracy.

The resolution not only put an end to a citizen oversight initiative, but also sent a worrying message about the limits to citizen participation and the ability of citizens to scrutinise and challenge government decisions in Ecuador.

2. Plagiarism reporting and citizen scrutiny: the Constitutional Court and the case of the State Attorney General Diana Salazar

State Attorney General Diana Salazar faced serious allegations of plagiarism in June 2023. The Colectivo Acción Jurídica Popular (Popular Legal Action Collective) claimed that Salazar had plagiarised her graduate thesis, submitted to obtain her degree as a lawyer and doctor of jurisprudence. This document was an essential part of her profile in the merit-based competition for her appointment as Prosecutor. Furthermore, additional allegations of plagiarism arose in relation to a book and a scientific article published by Salazar in 2019 and 2022 respectively, the latter during her tenure as Attorney General of the State. These accusations called into question the academic and professional integrity of the Prosecutor, generating a debate about ethics and credibility in the country's judiciary.⁴⁸

The controversy surrounding the State Attorney General, Diana Salazar, escalated when the Council for Citizen Participation and Social Control (CCPSC) became aware of the allegations of plagiarism presented by the People's Legal Action Collective (Colectivo Acción Jurídica Popular). The collective called a public hearing for June 1 and 2, 2023, with the aim of discussing the accusations. However, both Salazar and his legal representative chose not to attend the hearing.

Subsequently, on June 26, 2023, the Plenary of the CCPSC decided to approve the investigation report on the allegations of plagiarism and to forward it to the Attorney General's Office. The instruction was to investigate a possible offence of influence peddling associated with the case.

⁴⁷ Redaction (2023, 2 October). Corte Constitucional: Manabí Court revokes oversight and points fingers at judge. *Primicias*. <https://www.primicias.ec/noticias/politica/corte-manabi-revoca-veeduria-juez-montecristi/>.

⁴⁸ Editorial office (2023, 22 May). Salazar denounced for alleged plagiarism in undergraduate thesis. *Radio La Calle*. <https://radiolacalle.com/denuncian-a-salazar-por-supuesto-plagio-en-tesis-de-pregrado/>.

In a statement issued by the CCPSC, its president, Alembert Vera, emphasised the Council's stance against any act of intimidation, reaffirming its commitment to transparency and justice.⁴⁹

In a reaction that intensified the controversy, Diana Salazar accused the CCPSC of attempting to remove her from office, even though such action is outside the Council's competence. This accusation suggests a growing tension between the Attorney General's Office and the CCPSC, highlighting the complex dynamics of power and influence in the Ecuadorian justice system.

On September 25, 2023, the public hearing of the Constitutional Court took place, a key event in the context of institutional tensions in Ecuador. During this hearing, the Attorney General of the State, Diana Salazar, made a strong request to the members of the Constitutional Court: she asked for the dismissal of four councillors of the CCPSC. Salazar based her request on an alleged violation of interpretative ruling 2-19-IC/19 by these councillors, a ruling which includes references to her own appointment as Attorney General. This episode was broadcast and recorded on the Constitutional Court's official YouTube channel.⁵⁰

During the public hearing of the Constitutional Court on September 25, 2023, a considerable legal issue was raised. The six magistrates that make up the Court were appointed by the Transitory CCPSC, raising doubts about their ability to make an objective judgement in the case of a possible dismissal. This situation poses a significant conflict of interest, as the magistrates are a direct product of the very actions that were under review and questioning. The ability of these magistrates to make impartial decisions in this context is questionable, raising serious concerns about the impartiality and integrity of the ongoing judicial process. This concern was highlighted by Dr Jorge Sosa Meza in a tweet published on 26 September 2023, highlighting the complexity and challenges of constitutional justice in Ecuador.⁵¹

3. Intervention of the Constitutional Court and dismissal of CCPSC officials: questions over separation of powers in Ecuador

On October 6, 2023, in a controversial decision, the Constitutional Court of Ecuador ruled to dismiss Alembert Vera Rivera, President of the CCPSC, and Ismael Merizalde Núñez, general coordinator of legal advice to the CCPSC. This verdict was taken in response to what the Court perceived as a failure by the CCPSC to comply with interpretative opinion 2-19-IC/19.

⁴⁹ Council of Citizen Participation and Social Control (2023, 4 July). "We are not going to allow acts of intimidation", says CCPSC president Alembert Vera. <https://www.cpcs.gob.ec/2023/07/no-vamos-a-permitir-actos-de-intimidacion-afirma-el-presidente-del-cpcs-alembert-vera/>.

⁵⁰ Constitutional Court of Ecuador (2023, 25 September). Public Hearing Case No. 2-19-IC]. YouTube. <https://www.youtube.com/live/RZGbLYC3jDw?-si=w7vE4JpS8XQ4Sub3>.

⁵¹ Sosa, J. [@JorgeSosaMeza] (2023, 26 September). The follow-up phase for compliance with constitutional decisions is not a disciplinary sanctioning process... (Youtube video attached). X. <https://x.com/JorgeSosaMeza/status/1706477552154313095?s=20>.

The Court argued that the CCPSC had violated this ruling through two specific actions: the review of the public merit-based competition for the selection and appointment of the Attorney General of the State and the initiatives to establish a citizen oversight body. This resolution has generated a broad debate on the independence and separation of powers in the country, as it is perceived as a drastic measure that directly affects officials selected through democratic processes.⁵²

The situation in Ecuador regarding Interpretative Opinion 2-19-IC/19 raises serious questions about the integrity of its democratic institutions. This ruling, which safeguards the decisions of the Transitory CCPSC, imposes significant restrictions on the democratically elected CCPSC in 2023. In doing so, it creates a worrying precedent that undermines the principles of self-governance and institutional checks and balances, vital elements in any democratic system.

Beyond the legal issues, this ruling directly affects the essence of citizen participation. By limiting the powers of the elected CCPSC, it restricts its capacity for oversight and control, essential functions to ensure transparency and accountability in governance. This restrictive approach of the opinion weakens active citizen participation, thus eroding one of the most important foundations of democracy: the right of citizens to oversee and supervise the actions of public authorities.

The problem is compounded when one considers that the Transitory CCPSC, which benefited from this ruling, was responsible for appointing the current judges of the Constitutional Court. This raises questions about the impartiality of the Court in interpreting and applying this ruling, as a conflict of interest could be perceived. Such a situation not only calls into question judicial independence, but also affects the public perception of the judiciary and its impartiality.

Due to the seriousness of these issues, on October 6, 2023, a communication was submitted by the organisations subscribing to this report to the UN Rapporteur on the independence of judges and lawyers. This action seeks to highlight concerns about judicial independence in Ecuador and the need to ensure that democratic institutions operate with full transparency and respect for fundamental rights. The objective is to press for an international assessment and response to this situation, which it considers a possible violation of the basic principles of justice and democracy guaranteed by international treaties.

⁵² Editorial Staff (2023, 7 October). Constitutional Court removes the president of the Council of Citizen Participation and Social Control from his post, Alembert Vera. Confirmado.net. <https://confirmado.net/2023/10/07/corte-constitucional-destituye-a-presidente-del-consejo-de-participacion-y-control-social-alembert-vera/>.

G. Attacks on the Judiciary

1. Statement by the UN Special Rapporteur on Judicial Independence in Ecuador: attacks and concerns of August 23, 2023.⁵³

The UN Special Rapporteur on the independence of judges and lawyers expressed deep concern about the critical situation faced by justice officials in Ecuador. This alarm focuses on their vulnerability, particularly in cases related to organised crime and corruption. During the period 2022-2023, violence towards these officials has reached alarming levels: four prosecutors were murdered, and numerous judges and other judicial officials have been targets of intimidation and threats. In addition, multiple bomb threats to judicial facilities have been reported, evidencing a climate of hostility and danger. In the province of Manabí, for example, thirteen incidents of attacks and threats against judicial personnel were reported. In addition, the Rapporteur highlighted that several criminal judges have faced physical attacks and have managed to survive assassination attempts, underlining the severity of the security crisis affecting the judicial sector in Ecuador.

The Special Rapporteur underlined with great concern that attacks and threats against judicial officials in Ecuador constitute a serious attack on the independence of the judicial system, an indispensable element to guarantee the adequacy of judicial systems.⁵⁴ These acts of violence and coercion have a direct and pernicious impact on the work of judges and prosecutors, particularly in their efforts to safeguard the rule of law in the fight against corruption and organised crime. The Special Rapporteur emphasised that these attacks not only put the integrity and lives of officials at risk, but also represent a flagrant violation of their fundamental rights and freedoms. The independence and security of judicial personnel are crucial to maintaining public confidence in justice and ensuring that the law is applied fairly and impartially. These events not only undermine confidence in the judicial system, but also jeopardise the basic principles of democracy and the rule of law in Ecuador.

The Special Rapporteur on the independence of judges and lawyers, in her most recent report to the Human Rights Committee, issued a stark warning: attacks on judicial independence are an alarming hallmark of processes of autocratisation and democratic decline. This statement highlights the seriousness with which threats to the judiciary must be addressed, as they are not just isolated attacks on individuals, but indicative of a wider and worrying trend that threatens the very foundations of democracy. Judicial independence is a fundamental pillar of the rule of law and its erosion can be an early sign of democratic decline, where fundamental freedoms and principles of fairness and justice are at risk.

⁵³ Office of the United Nations High Commissioner for Human Rights (2023, 23 August). Attacks on Ecuador's judiciary threaten rule of law, UN expert warns. <https://www.ohchr.org/es/press-releases/2023/08/attacks-against-ecuadorian-judiciary-threaten-rule-law-warns-un-expert>.

⁵⁴ Report of the Special Rapporteur on the independence of judges and lawyers, Margaret Satterthwaite (2023, 13 April). A/HRC/53/31. https://digitallibrary.un.org/record/4011014/files/A_HRC_53_31-ES.pdf.

This context demands immediate attention and action to protect the integrity of the judicial system and preserve democracy in Ecuador.⁵⁵

In her statement, the Rapporteur strongly urged the Ecuadorian authorities to take concrete measures to address the alarming situation of violence and intimidation facing the country's judicial system. It has urged thorough and effective investigations into all attacks and threats directed at judges, prosecutors, and other judicial officials. Furthermore, she has emphasised the critical need to ensure that these professionals are adequately protected, allowing them to carry out their essential work without fear of reprisals or harm. In this context, the Special Rapporteur has maintained active communications with the Government of Ecuador, seeking to address and resolve these troubling allegations. This call highlights the importance of safeguarding judicial independence as a key component of the rule of law and democracy in Ecuador.

2. Escalation in the judicial crisis: arrest of Wilman Terán, one more step in the ‘judicial coup d’état’ of December 14, 2023

In the early hours of December 14, 2023, the controversial arrest of Wilman Terán, President of the Council of the Judiciary and former judge of the National Court of Justice, took place.⁵⁶ This action, which is part of the “Metástasis” operation led by the Attorney General’s Office, has been interpreted by some sectors as a diversionary manoeuvre by the Attorney General, Diana Salazar, whose impending impeachment trial in the National Assembly and the imminent competition for judges of the National Court are at the centre of controversy.

The arrest comes in the context of an alleged corruption network with links to drug trafficking, involving some thirty figures from the judicial, prison, police, and criminal systems. However, the timing of these events has raised suspicions that the operation could be used as a smokescreen to divert attention from the political and judicial processes facing the Attorney General’s Office itself.

This interpretation is reinforced by the critical situation in which Ecuador’s judicial system finds itself, marked by recent controversial decisions and actions that have undermined public confidence in the impartiality and independence of its institutions. In this context, the arrest of Terán, a key figure in the country’s judiciary, has added another layer of complexity to an already tense political and judicial situation, raising concerns about legitimacy and transparency in the handling of cases of high national relevance.

The Judiciary Council of Ecuador plays a crucial role as the governing, administrative, supervisory, and disciplinary body of the judiciary. It oversees the proper administration of justice by judges and is structured at several levels: jurisdictional bodies, which include the National Court of Justice, the

⁵⁵ Ibid.

⁵⁶ Editorial Staff (2023, 14 December). Correa anticipated: Mega operation and raids, 29 arrested, among them president of the Judiciary. Confirmado.net. <https://confirmado.net/2023/12/14/correa-anticipo-mega-operativo-y-allanamientos-29-detenidos-entre-el-los-presidente-de-la-judicatura/>.

Provincial Courts of Justice, and the courts and tribunals of first instance; administrative bodies, represented by the Judicature Council itself; auxiliary bodies, such as notaries, judicial auctioneers and judicial depositaries; and autonomous bodies, including the Attorney General's Office and the Public Defender's Office.

While the Judiciary Council has the authority to supervise and sanction the State Prosecutor's Office, its power is limited to disciplinary measures, not extending to the dismissal of its members. This limitation underlines the autonomy and independence of the Prosecutor's Office, ensuring that its operations and decisions are not subject to external influence. The structure and competencies of the Judiciary Council are essential to maintain the balance and integrity of the Ecuadorian judicial system, ensuring that each component of the Judicial Function operates within its corresponding legal and ethical framework.⁵⁷

The arrest of Wilman Terán, President of the Judiciary Council of Ecuador, in the early hours of December 14, 2023, generated controversy and concern in the country's legal and political sphere. Hours after the raid on his home and the offices of the Judiciary Council, Terán expressed his distrust of the legitimacy of his arrest, suggesting that it was in response to intentions to destabilise justice and democracy in Ecuador.

In an unexpected twist during his detention, Terán was informed, without apparent legal basis, of alleged links to "hired killings and organised crime". Most worryingly, his home was raided after his transfer, without his presence, intensifying his fears that evidence could be planted against him. This procedure has been questioned for its possible violation of standard legal protocols, fuelling speculation about the transparency and fairness of the process.

This incident not only raises doubts about the integrity of the operation, but also casts shadows on the independence and impartiality of the Ecuadorian judicial system. The way the arrest and raid were carried out, along with Terán's statements, suggests the possibility of a wider political manoeuvre, which could have significant implications for democracy and judicial stability in Ecuador.

The arrest of Wilman Terán, President of the Judiciary Council of Ecuador, in a context of growing tensions and institutional challenges. His appointment in February 2023 by the CCPSC and the subsequent loss of confidence by the National Court of Justice in August underline a climate of instability and conflict within the Ecuadorian judicial system. The situation is further complicated by the Attorney General's expressed disapproval of Terán, especially on the eve of a crucial phase in the competition to select seven judges for the National Court of Justice.

⁵⁷ Live broadcast on Youtube (2023, 14 December). Prosecutor's Office arrests Wilmán Terán. Ecuador Live. <https://www.youtube.com/watch?v=R12UpOsZbFk>.

Teran's arrest, just before a key meeting of the Plenary of the Judiciary Council to appoint the National Court of Justice, seems not only timely but also strategically calculated. This event not only disrupts the process of selecting judges, but also raises serious questions about the independence of the Judiciary Council and the integrity of the judicial process.

In response to these events, the five NGOs that authored this report issued a social media statement on 14 December condemning the arbitrary arrest of Wilman Terán. This statement highlights concerns about the implications of this arrest for the fight against corruption, judicial independence, and the preservation of democracy in Ecuador.

Given the seriousness of the situation, it is essential that the United Nations Rapporteur ship on the Independence of Judges and Lawyers intervene and make a statement. The credibility of the Ecuadorian judicial system is at stake, and the international community must be vigilant in ensuring that the principles of justice, judicial independence and democracy are respected. The urgency of this situation cannot be underestimated, as the future of democratic governance and the rule of law in Ecuador could depend on how this crisis is handled.

H. Use of the judiciary for the persecution and criminalisation of political opponents

1. Contextualization and evolution of political persecution

For a deeper understanding of political persecution in Ecuador, it is essential to refer to our previous report, published in December 2022. On 92 to 111, this document details the cases of political opponents and the sentences imposed against them.⁵⁸

Over the past year, we have observed an alarming increase in the persecution and criminalisation of political opponents. These actions, which appear to be aimed at silencing and discrediting voices critical of the government, fall under the umbrella of what is known as lawfare. This misuse of the judicial system as a political tool has created an atmosphere of fear and intimidation, evidenced in several emblematic cases that highlight the erosion of the rule of law and respect for fundamental rights. These cases are indicative of a worrying trend towards authoritarianism and the restriction of freedom of expression, essential elements in any democratic society. The following is an analysis of the emblematic cases:

⁵⁸ Report on the situation of serious violations of the rule of law and fundamental rights and freedoms in Ecuador (2022, 03 December). <https://github.com/huayra/nofec.no/raw/master/static/images/Report%20on%20the%20situation%20of%20serious%20violations%20of%20the%20rule%20of%20law%20and%20of%20fundamental%20rights%20and%20freedoms%20in%20Ecuador.pdf>.

2. Rafael CORREA DELGADO

International recognition as a victim of persecution policy and rejection of red alerts by Interpol

The case of Rafael Correa, President of Ecuador between 2007 and 2017, has generated considerable international attention due to the accusations and judicial proceedings against him. Interpol rejected Ecuador's requests for "Red Alerts" against Correa, considering them incompatible with human rights. This decision was communicated to Ecuador's National Court of Justice, stating that maintaining Correa's information in Interpol's system was not compatible with the organisation's responsibilities in the context of respect for the Universal Declaration of Human Rights.⁵⁹

In addition, a Belgian court rejected a request by the Ecuadorian justice system to extradite Correa, who currently resides in Brussels with his Belgian wife. The Belgian courts dismissed the extradition request on the grounds of political persecution and that Correa was granted refuge and political asylum in Belgium on April 15, 2022, preventing the Ecuadorian authorities from extraditing him. This decision adds weight to Correa's claims that he is a victim of political persecution. Correa was sentenced in Ecuador in November 2021 to eight years in prison on corruption charges, which he has steadfastly denied. Correa's defenders and independent jurists have suggested that his conviction reflects a broader pattern of lawfare against popular leftist movements in Latin America.⁶⁰

The 2012-2016 Soborno Case: a paradigmatic example of lawfare in Latin America

The 2012-2016 Soborno case, which resulted in the conviction of twenty people, including former president Rafael Correa, on bribery charges, has become emblematic of what many critics consider to be a manifestation of lawfare in Latin America. Correa was convicted on the controversial theory of "psychic influence", which implied his influence over his collaborators simply because he was president at the time, without additional direct evidence.

The application of the "psychic influence" theory in this case has been strongly criticised and described by legal experts as a legal aberration. It represents a worrying precedent in the use of the judicial system as a political tool against opponents.

A key milestone in the analysis of this case was the international seminar organised on 11 November 2022 by the Peninsula State University of Santa Elena, the Bolivarian University of Ecuador, and the Distance University of Madrid (Udima). At this event, held in Guayaquil, renowned jurists such

⁵⁹ Editorial Staff (2021, 18 August). Interpol Rejects Red Alert Against Rafael Correa for Third Time. Telesur in English. <https://www.telesurenglish.net/news/Interpol-Rejects-Red-Alert-Against-Rafael-Correa-for-Third-Time-20210818-0013.html>.

⁶⁰ Editorial Staff (2018, 5 December). Interpol Scraps Red Notice on Rafael Correa Citing Human Rights. Telesur in English. <https://www.telesurenglish.net/news/Interpol-Scraps-Red-Notice-on-Rafael-Correa-Citing-Human-Rights-20181205-0031.html>.

as Raúl Zaffaroni, Aitor Martínez, Baltasar Garzón, among others, discussed the violations of due process and minimum judicial guarantees evidenced in the criminal proceedings of the Bribery Case.

The seminar highlighted procedural irregularities and the apparent instrumentalization of the executive over the judiciary to persecute political opposition figures and exclude Rafael Correa from the 2021 elections. The unanimous conclusion of the experts was that the case lacked basic judicial guarantees and constituted a clear example of lawfare.⁶¹

Political manipulation and the media: murder of Fernando Villavicencio

The murder of Fernando Villavicencio, journalist, and presidential candidate, on August 9, 2023, unleashed a wave of speculation and accusations on the Ecuadorian political scene. Specific political sectors and several media outlets used this unfortunate event to try to implicate Rafael Correa and his “Revolución Ciudadana” movement, seeking to discredit his political influence and increase polarization in the country. This act of manipulation intensified just before the first round of the presidential elections, creating a climate of mistrust and political tension.

The context was further complicated during the second round of the elections, when seven of the alleged perpetrators of Villavicencio’s murder were killed in suspicious circumstances while in custody in Ecuadorian state prisons. This event was interpreted by many as an attempt to link Correa and his political movement to these deaths, negatively influencing public opinion and the electoral outcome. These actions, apparently coordinated, seemed aimed at undermining the legitimacy of the “Citizen’s Revolution” and distorting the democratic process in Ecuador.

This strategic and manipulative use of a high-profile political crime reflects a worrying trend in Ecuadorian politics, where lawfare and media manipulation are used as tools to influence the political and public landscape. The situation underlines the need for an impartial press and politics based on facts and democratic principles, away from defamation and manipulation.

3. Jorge GLAS ESPINEL

The chronicle of political persecution and lawfare: the case of the former Vice-President

Jorge Glas, who served as Vice President of Ecuador from 2013 to 2018, experienced a dramatic change in his political career. Although he initially shared a mandate with Rafael Correa and later with Lenin Moreno, his relationship with Moreno deteriorated significantly due to political divergences and a distancing from Correa’s policies. In this context of political tensions, Glas was involved in

⁶¹ KolectiVOZ Digital (2022, 16 November). Echoes of the International Seminar on the Bribery Case. <https://youtu.be/zWjVBSpkz3E>.

a series of accusations linked to corruption cases, such as the Odebrecht and Bribery scandals. These judicial proceedings resulted in sentences of six and eight years, respectively, on charges that his defenders describe as politicised and questionable. The sequence of these events and the subsequent sentences have been interpreted by many observers as part of a lawfare strategy used to marginalise political figures opposed to the current administration.

The case of Jorge Glas, former Vice-President of Ecuador, has attracted international attention, reflected in several pronouncements by human rights organisations, such as:

- On December 31, 2019, the Inter-American Commission on Human Rights (IACHR) issued precautionary measures in his favour, motivated by concerns about his health and the conditions of his detention. These measures, detailed in Resolution No. 69/19, emphasise the need to protect the integrity of Glas.⁶²
- On October 21, 2021, the UN Working Group on Arbitrary Detention recognised violations of Glas' human rights and requested alternative measures to detention. This decision highlights concerns about the treatment of Glas and the circumstances of his detention and refers the case for investigation by other rapporteurs.⁶³
- On May 25, 2022, the IACHR classified the Odebrecht case in the Inter-American system as urgent, demonstrating the seriousness of the accusations and the judicial process.⁶⁴
- Diego García-Sayán, UN Special Rapporteur on the independence of judges and lawyers, highlighted on 10 August 2022 the worrying situation of Glas, who remained in detention despite a writ of habeas corpus in his favour. This statement highlights concerns about respect for the rule of law and judicial independence in his case.⁶⁵

⁶² Report on the situation of serious violations of the rule of law and fundamental rights and freedoms in Ecuador (2022, 03 December) pp. 99-100. <https://github.com/huayra/nofec.no/raw/master/static/images/Report%20on%20the%20situation%20of%20serious%20violations%20of%20the%20rule%20of%20law%20and%20of%20fundamental%20rights%20and%20freedoms%20in%20Ecuador.pdf>.

⁶³ Inter-American Commission on Human Rights (2019, 6 December). Resolution No. 69/19 - Precautionary Measure No. 1581-18 - Jorge David Glas Espinel with respect to Ecuador. <https://www.oas.org/es/cidh/decisiones/pdf/2019/69-19MC1581-18-EC.pdf>.

⁶⁴ Office of the UN High Commissioner for Human Rights. (2021, 11 November). Working Group on Arbitrary Detention of the UN Human Rights Council. Opinion No. 39/2021 concerning Jorge David Glas Espinel (Ecuador). https://www.ohchr.org/sites/default/files/2021-11/A_HRC_WGAD_2021_39_AdvanceEditedVersion.pdf.

⁶⁵ García-Sayán, D. [@ExRelator_UNU] (2019, 10 May). #Ecuador. As UN Rapporteur on Judicial Independence, I am closely following the situation of a court order to release former President Jorge Glas... (Post). X. https://x.com/ExRelator_UNU/status/1557446921509289985?s=20.

Odebrecht case: annulment of evidence in Brazil and testimony by Abdalá Bucarám Pulley

The Odebrecht case is one of the most representative cases of corruption in Latin America, involving the distribution of millions of dollars to politicians, businessmen and former officials in 12 countries. It is based on an investigation by the US Department of Justice, together with 10 other Latin American countries, into the Brazilian construction company Odebrecht.

In October 2017, former vice-president Jorge Glas was arrested in connection with the Odebrecht case and sentenced to six years in prison in December.

A crucial turning point came on August 9, 2023, when Brazil's Supreme Federal Court invalidated the evidence presented by Odebrecht against Jorge Glas, on the grounds that it was obtained illegally⁶⁶ and that he was unjustly sentenced in Ecuador to six years in prison in this case.

The annulment of the evidence in the case of Jorge Glas, former Vice-President of Ecuador, was based on its obtaining without judicial authorisation and the lack of compliance with due legal process. On August 24, 2023, in an effort of international legal cooperation, the Brazilian court sent the sentence to the Ecuadorian prosecutor's office. However, there was a significant delay in the actions of the Attorney General of the State, Diana Salazar. It was not until December 28, 2023, that she notified Glas' defence of the withdrawal of the file.

This delay in the notification of the judgment raises questions about the efficiency and transparency of the OTP in handling cases of international relevance. The situation underlines the importance of adhering to the principle of due process in judicial proceedings, especially in cases involving cooperation between international jurisdictions.

In an increasingly worrying context, recent statements by former Ecuadorian Assemblyman Abdalá Bucarám Pulley, issued on December 8, 2023, have shed light on questionable manoeuvres that have affected the integrity of Ecuador's judicial system. In a public statement, Bucaram expressed regret for having endorsed former president Lenin Moreno and revealed the existence of fraudulent tactics designed to incriminate Jorge Glas, including the manipulation of a flash drive. Bucaram claims that Moreno was directly involved in building the Odebrecht case against Glas, using fabricated evidence.^{67 and 68}

⁶⁶ Vázquez, R. (2020, 29 October). Brazil's Supreme Court annuls Odebrecht evidence against Jorge Glas. Fuser News. <https://fusernews.com/supremo-tribunal-de-brasil-anula-pruebas-de-odebrecht-contra-jorge-glas/>.

⁶⁷ Redacción. (2023, 12 de diciembre). Bucaram sembró 'pruebas' para encarcelar a Glas: Bucaram se arrepinte (video). Noticias D. <https://www.noticiasd.com/ecuador/politica/articulo/lenin-moreno-sembró-pruebas-para-encarcelar-a-glas-bucaram-se-arrepinte-video/>.

⁶⁸ Buitrago, L. (2019, 1 de octubre). Caso Jorge Glas: así se forjaron las «pruebas» y el falso testimonio para incriminarlo. El Ciudadano. <https://www.elciudadano.com/reportaje-investigacion/caso-jorge-glas-asi-se-forjaron-las-pruebas-y-el-falso-testimonio-para-incriminarlo/10/01/>.

This confession is evidence of a worrying manipulation of justice and corroborates that Glas has been the victim of political persecution. However, despite the seriousness of these revelations, the Attorney General of the State has decided not to initiate a new investigation to clarify these accusations. Instead, she has opted to uphold the existing conviction against Glas.⁶⁹

Such a decision calls into question the impartiality and objectivity of the Prosecutor General's Office, suggesting that its actions may be more geared towards protecting private interests rather than ensuring the impartial justice that should prevail in a fair judicial system.

Singue case: reopening of investigation in the case and its implications

The Singue case, related to the awarding of a contract for the extraction of oil in the Singue Field, involves the former Vice President of Ecuador, Jorge Glas. The Attorney General's Office initially accused him of irregularities in the process, arguing an alleged economic damage to the state of 28 million dollars for establishing a price of 33.5 dollars per barrel produced, lower than the value of the initial offer.⁷⁰

However, an international arbitration award contradicts this assertion, determining that there was no damage to the state and ordering Ecuador to compensate Gente Oil with 11 million dollars.⁷¹ This international decision highlights the lack of basis for the accusations of the Attorney General's Office.

Subsequently, on November 10, 2022, the National Court of Justice of Ecuador declared the sentence against Jorge Glas and seven other implicated parties null and void, establishing that the Singue case should never have been initiated. The Court identified violations of fundamental rights such as due process, in addition to recognising that there was no harm to the State.

Despite this Court decision, on June 2, 2023, the State Prosecutor's Office reopened the preliminary investigation against 14 individuals, including Jorge Glas.⁷² This action raises serious questions about the motivation behind the Prosecutor's decision and its implications for the rule of law in Ecuador.

⁶⁹ Editorial office (2023, 11 December). Prosecutor's Office responds to Dalo Bucaram's statements on evidence against Glas in Odebrecht case. Teleamazonas. <https://www.teleamazonas.com/fiscalia-abdala-bucaram-jorge-glas/>.

⁷⁰ Press Room (2022, 24 May). Arbitration award. Singue Field. <https://www.camposingue.com/>.

⁷¹ Newsroom (2022, 7 June). Arbitral tribunal rules in favour of Gente Oil in the Singue case. Petroenergía. <https://www.petroenergia.info/post/tribunal-arbitral-falla-a-favor-de-gente-oil-en-el-caso-singue>.

⁷² Editorial office (2023, 2 June). Singue case, involving Jorge Glas, is reactivated from the preliminary investigation. Primicias. <https://www.primicias.ec/noticias/politica/caso-singue-reactiva-investigacion-previa/>.

The reopening of the case, especially after a court decision and an international arbitral award dismissing the charges, suggests a possible persistence in the use of justice for political purposes, undermining confidence in the independence and impartiality of the Ecuadorian judicial system.

After the release: reprisals and asylum in the Mexican embassy

Jorge Glas has faced a complex path to freedom. Released in December 2022⁷³ on a precautionary measure after five years and four months in prison, he underwent a political rehabilitation that implied the recognition of having been a victim of political persecution or lawfare.⁷⁴ Despite recovering his political rights, the difficulties did not cease.

Moreover, a worrying aspect of his case is the retaliation against judges who have ruled in his favour. Several national judges who had ruled in his favour have been accused of prevarication, dismissed from their posts and some have even been imprisoned.⁷⁵ This trend has raised alarms about the independence and integrity of the judicial system in Ecuador, as it suggests a pattern of intimidation and punishment against those who make judicial decisions that do not align with certain political interests.

Jorge Glas faced a denial of his pre-release request in December 2023, a decision that has raised controversy and concerns about the impartiality of the Ecuadorian judicial system. Despite having served more than 60% of his sentence and having made academic efforts by obtaining two master's degrees and enrolling in a PhD, his pre-release request was denied under questionable evaluation criteria.

The reasons for this refusal include a low rating in the report of the Technical Evaluation and Diagnostic Team of the Deprivation of Liberty Centre, which penalised Glas for not participating in group activities in prison. This criterion is particularly questionable given that Glas received more than 70 death threats and lived in forced isolation for security and health reasons, which prevented him from participating in such activities.

Glas's denial of pre-release contrasts with other cases, such as those of criminal gang leaders who have received prison benefits under similar circumstances⁷⁶. This unequal treatment underscores inequalities in the application of prison benefits within the Ecuadorian judicial system. This unequal treatment underlines the inequalities in the application of prison benefits within the Ecuadorian judicial system. The judge also requested his return to prison, a sentence that has been appealed by his national defence.

⁷³ Editorial office and agencies (2022, 29 November). Ecuador: Jorge Glas, convicted of corruption, is released. DW. <https://www.dw.com/es/ecuador-jorge-glas-condenado-por-corrupci%C3%B3n-sale-en-libertad/a-63921833>.

⁷⁴ Editorial office (2023, 10 June). Former Ecuadorian vice-president's political rights restored. Telesur. <https://www.telesurtv.net/%20news/ecuador-restituyen-derechos-politicos-jorge-glas-20230610-0001.html>.

⁷⁵ Cañizares, A. (2022, 9 August). Judge orders the release of Jorge Glas, former vice president of Ecuador, but the government warns that he will not be released. CNN en Español. <https://cnnespanol.cnn.com/2022/08/09/jorge-glas-libertad-ecuador-vicepresidente-gobierno-orix/ge-glas-a-case-of-justice-and-political-asylum-for-sonia-vera/>.

⁷⁶ Vera, S. (2023, 29 December). Jorge Glas: The Denial of Pre-Freedom and his Asylum in the Mexican Embassy. Confirmado.net. <https://confirmado.net/2023/12/29/jorge-glas-la-negativa-de-prelibertad-y-su-asilo-en-la-embajada-mexicana-por-sonia-vera-garcia/>.

In anticipation of this, Glas sought asylum in the Mexican embassy in Quito on December 20 2023,⁷⁷ evidencing his lack of confidence in the Ecuadorian justice system and his fear for his safety and life. He is currently a diplomatic asylum seeker and guest of the United Mexican States. His case reflects the challenges and issues facing the judicial system in Ecuador, where legal decisions can be influenced by factors beyond the law and justice.

Manabí and Esmeraldas reconstruction case: new preventive detention order

An investigation was opened into the alleged crime of embezzlement related to the failed reconstruction process in the province of Manabí. Jorge Glas and two former officials allegedly administered the resources destined for the urgent works required in the area affected by the 2016 earthquake in Manabí and Esmeraldas.⁷⁸ Glas did not manage funds; he chaired the committee that prioritised the reconstruction projects and the productive reactivation of Manabí and Esmeraldas. The reason for the accusation: the construction of a park and a road.

Critically, this case was launched to coincide with the early presidential elections on October 15, 2023. The prosecutor's tactic of starting investigations at election time has raised concerns among human rights defenders and political observers alike.

In relation to the case, a hearing was convened by the Prosecutor's Office for November 29, 2023, for the purpose of bringing charges against Jorge Glas. The judge requested authorisation from the National Assembly to continue his prosecution, as established in Article 120 numeral of the Constitution, and although the Assembly did not authorise the prosecution,⁷⁹ Glas' defence challenged the judge,⁸⁰ the judge ignored the request and called Glas to trial, accepted the prosecutor's request and ordered his preventive detention.⁸¹ This scenario raises doubts about the motivations behind the accusation, especially when other members of the committee do not face similar charges and all decisions were taken unanimously.

⁷⁷ Vera, S. (2023, 19 December). Jorge Glas: A Case of Injustice and Political Asylum. Confirmado.net. <https://confirmado.net/2023/12/19/jor>.

⁷⁸ Editorial Staff (2023, 4 September). Reconstruction of Manabí: Glas criticises new case against him. Primicias. <https://www.primicias.ec/noticias/politica/reconstruccion-manabi-jorge-glas-peculado/>.

⁷⁹ Editorial Office (2023, December 21). In a controversial decision, the Assembly did not reach the votes to authorise the trial of Jorge Glas. Primicias. <https://www.primicias.ec/noticias/politica/asamblea-resolucion-enjuiciamiento-penal-glas/>.

⁸⁰ Editorial office (2024, 4 January). Jorge Glas challenges judge Luis Rivera and once again prevents a hearing from being held in the case of the Reconstruction of Manabí. Radio Huancavilca 830 AM. <https://radiohuancavilca.com.ec/jorge-glas-recusa-al-juez-luis-rivera-y-vuelve-a-impedir-que-se-instale-audiencia-en-caso-reconstruccion-de-manabi/>.

⁸¹ EFE Agency (2024, 5 January). Prosecutor asks for Glas to be remanded in custody for alleged embezzlement in the reconstruction of Manabí. La República. <https://www.larepublica.ec/blog/2024/01/05/fiscalia-pide-prision-preventiva-de-glas-por-la-reconstruccion-de-manabi/>.

4. María de los Ángeles DUARTE PESANTES

María de los Ángeles Duarte, a former minister in Ecuador's Citizen Revolution government, has become an emblem of political persecution on the international stage. Implicated in the Bribery case and sentenced to eight years in prison in 2020, her story has transcended national borders, becoming a focus of attention on human rights and political justice.

Interpol's rejection of two requests from Ecuador to issue a red notice against Duarte is a key indication.⁸² These rejections suggest doubts about the fairness and justice of the legal proceedings against him, supporting the perception that his case may be motivated more by political considerations than objective legal issues. This crucial aspect highlights the importance of fairness and justice in legal proceedings, especially in an international context.

Seeking safety and legal protection, Duarte took refuge in the Argentine embassy in Quito in 2020, invoking protection under the 1954 Convention on Diplomatic Asylum and the American Convention on Human Rights.⁸³ Argentina's granting of diplomatic asylum in December 2022,⁸⁴ and Ecuador's subsequent refusal to grant safe conduct,⁸⁵ highlights the dispute over her status as a politically persecuted person and the international obligations related to asylum.

The situation was exacerbated by diplomatic tension between Ecuador and Argentina, including the reciprocal expulsion of ambassadors, reflecting the magnitude of the case in the international arena. These events underline the complexity of balancing national sovereignty, legal processes, and human rights in cases of alleged political persecution.

Finally, in March 2023, María Duarte left the Argentine embassy and found refuge in Venezuela,⁸⁶ adding another layer of complexity to her situation. This turn of events reinforces Duarte's narrative as a central figure in a broader debate about political persecution, international justice, and the protection of human rights globally.

⁸² Editorial Staff (2022, March 9). Interpol denies red notice against María de los Ángeles Duarte, ex-minister of Rafael Correa. Confirmado.net. <https://confirmado.net/2022/03/09/interpol-niega-difusion-roja-contramaria-de-los-angeles-duarte-ex-ministra-de-rafael-correa/>.

⁸³ Agencias (2020, 13 August). Ecuador: former minister convicted of corruption takes refuge in Argentine embassy. DW. <https://www.dw.com/es/ecuador-exministra-condenada-por-corrupcion-se-refugia-en-embajada-argentina/a-54561497>.

⁸⁴ Agencias (2022, 13 December). Argentina grants diplomatic asylum to María de los Ángeles Duarte. DW. <https://www.dw.com/es/argentina-concede-asilo-diplomatico-a-mar-angeles-duarte/a-63974020>.

⁸⁵ Agencias (2022, 14 December). Ecuador denies safe-conduct to María de los Ángeles Duarte. DW. <https://www.dw.com/es/ecuador-niega-salvoconducto-a-mar-angeles-duarte/a-64085057>.

⁸⁶ Editorial staff and El Clarín (2023, 14 March). María de los Ángeles Duarte: «The Government turned me into its hosen». Primicias. <https://www.primicias.ec/noticias/politica/mariaangelesduarte-escapa-embajada-argentina-quito/>.

5. Pablo ROMERO QUEZADA

Pablo Romero Quezada was Ecuador's intelligence secretary between 2011 and 2013 during the government of Rafael Correa.

The Balda case involves Pablo Romero as one of the kidnapers of Fernando Marcelo Balda Flores, an Ecuadorian politician. In 2009, Balda fled to Colombia to escape two judicial proceedings. In 2012, he was held in a vehicle for a drive through several streets of Bogotá and after 40 minutes released by his Colombian captors, the case was sentenced in Colombia, with no mention of Rafael Correa.⁸⁷

Even though the case had already been tried in Colombia, the Ecuadorian judicial system did not respect the principle of non bis in idem and reopened the case in 2018, involving Pablo Romero and Rafael Correa, following a meeting between Balda and former President Lenín Moreno.⁸⁸

Pablo Romero sought asylum in Spain, where he had been residing since 2017. However, in June 2019 he was arrested in Madrid at Ecuador's request and subsequently released under precautionary measures of periodic presentation at any police station in Spain.⁸⁹ This initiated Pablo Romero's extradition trial. Despite protests and concerns about the lack of guarantees of a fair trial, Pablo Romero was extradited to Ecuador in February 2020, when an appeal on his asylum request was about to be resolved.⁹⁰

During his time in Spain, there were attempts by the Ecuadorian authorities to get Pablo Romero to provide information that could implicate Rafael Correa in the Balda case. He was reportedly offered a reduced sentence in exchange for his "effective cooperation" in accusing Rafael Correa and his allies in the kidnapping, but Pablo Romero refused to participate in what he considered to be a political persecution of Rafael Correa and his allies.⁹¹

On August 14, 2020, Pablo Romero was sentenced to nine years for the crime of kidnapping. On August 31, 2020, Raúl Chicaiza, one of the ex-agents who framed Pablo Romero, declared from Argentina: "They took us out of the CRS clandestinely to pressure them to implicate, with our testimony, high-ranking officials and former President Rafael Correa. This was the only way they would grant us effective cooperation, a maximum sentence of 9 months and witness protection".⁹²

⁸⁷ Editorial office (2012, 15 August). Fernando Balda denounces second kidnapping attempt in Colombia. El Universo. <https://www.eluniverso.com/2012/08/15/15/1/1355/fernando-balda-denuncia-segundo-intento-secuestro-colombia.html/>.

⁸⁸ Editorial Staff (2020, 31 August). Balda case would be a set up by Lenin Moreno and the late Trujillo. Banana Republic. <https://republicadelbanano.com/2020/08/31/caso-balda-seria-un-montaje-por-parte-de-lenin-moreno-y-el-fallecido-trujillo/>.

⁸⁹ Agencia EFE (2020, 19 February). Former intelligence chief Pablo Romero is arrested in Spain to be extradited to Ecuador. El Comercio. <https://www.elcomercio.com/actualidad/seguridad/pablo-romero-detenido-extradicion-espana.html>.

⁹⁰ Ortiz, S. (2020, 21 February). Pablo Romero, ex-secretary of Intelligence, is extradited this Friday, 21 February 2020. El Comercio. <https://www.elcomercio.com/actualidad/seguridad/pablo-romero-senain-extradicion-espana.html>.

⁹¹ Editorial office (2023, 12 April). Balda Case. Lawfare Ecuador. <https://lawfareecuador.com/2023/04/caso-balda/>.

⁹² Radio Pichincha Universal [@pichinchauniver] (2020, 31 August). Interview with Raúl Chicaiza. (Posting with video attached). X. https://x.com/radio_pichincha/status/1300463334068752384?s=20.

Since his return to Ecuador in February 2020, Pablo Romero was in pre-trial detention until March 22, 2023, when he was released on a precautionary measure,⁹³ he spent more than three years in prison without a final sentence.

In September 2020, Pablo Romero filed an appeal against the sentence, but his claims were rejected. In February 2022, the cassation court was set up and only convened for a hearing on July 31, 2023. Pablo Romero's cassation appeal has recently been denied.

In March 2023, Pablo Romero's international defence team sent a communication to Margaret Satterthwaite, UN Special Rapporteur on the Independence of Judges and Lawyers, to inform her of the persecution of Pablo Romero and to remind the Ecuadorian government of the requirements of international law, including the guarantee of the full exercise of Pablo Romero's rights, as well as adequate reparation.

The case of Pablo Romero is an example of how the principle of non bis in idem can be violated for political reasons. In addition, other principles such as territoriality, legality and the presumption of innocence have been violated. Pablo Romero has been the victim of political persecution that has affected his right to a fair trial and his personal freedom.

6. Freddy CARRIÓN INTRIAGO and Priscila SCHETTINI CASTILLO

Freddy Carrión was appointed as Ombudsman on April 10, 2019, by the Transitional Council for Citizen Participation and Social Control (CCPSC-T). During his tenure, his commitment to the defence of human rights in Ecuador was evident, especially for the most vulnerable groups, such as indigenous peoples, women, children, migrants, prisoners and LGBTI people.

One of the most significant acts during his administration was the creation of a Truth Commission that oversaw the elaboration and presentation of the report of crimes against humanity against former president Lenin Moreno and other high-ranking government officials. This report focused on the events of October 2019, when Ecuador experienced intense social protests following the elimination of fuel subsidies. The document not only limited itself to describing the events, but also provided a detailed legal analysis, pointing out that the forces of law and order had committed possible crimes against humanity by repressing the protesters. The gravity of the accusations was evidenced by the documentation of the deaths of 11 people, six of them possibly by extrajudicial executions, and the mutilation of 14 individuals due to the impact of tear gas bombs fired directly into their faces. Furthermore, this report attributed political and operational responsibility to former President Lenin Moreno, Defence Minister Oswaldo Jarrín, Government Minister María Paula Romo, and various officers of the National Police.⁹⁴

⁹³ Editorial office (2023, 22 March). Pablo Romero, ex-head of Senain, is released from prison. Primicias. <https://www.primicias.ec/noticias/%20politica/pabloromero-senain-salida-prision-snai/>.

⁹⁴ Revolución Ciudadana Ibiza and Formentera (2021, 26 March). Freddy Carrión: According to the Commission's report there were crimes against humanity. Un café con J.J. - Youtube. <https://www.youtube.com/watch?v=p7M02NgsaGk>.

However, the figure of Freddy Carrión became the subject of controversy in May 2021 after attending a social gathering with former health minister Mauro Falconí, whose partner accused him of committing sexual abuse. Despite his denials and his defence, which alleged inconsistencies and violation of due process⁹⁵ and has denounced prosecutor Diana Salazar of procedural fraud, on 20 October he was sentenced to three years' imprisonment. His defence filed an appeal, which was rejected by a Tribunal of the National Court of Justice on 10 March 2023.⁹⁶

Beyond the judicial process against Freddy Carrión, the situation worsened as it directly affected his family. On May 19, 2023, the Attorney General's Office decided to withdraw the witness protection action from Freddy Carrión's family.⁹⁷ This measure left Priscila Schettini Castillo, Freddy Carrión's wife, and their three minor children in a vulnerable situation. Priscila Schettini, who has been covered by the National System of Protection and Assistance to Victims, Witnesses and Other Participants since 2021, reported having been subjected to threats, intimidation, aggression, and robbery. The seriousness of the situation is reflected in the eight formal complaints he filed. Schettini has publicly attributed these actions and the decision to withdraw protection to reprisals directed by prosecutor Diana Salazar, in response to Freddy Carrión's work as Ombudsman, and to her denouncing the prosecutor for plagiarism of her graduate thesis and academic work with the Acción Jurídica Popular lawyers' collective.

Since July 24, 2023, Priscila Schettini and the Colectivo Acción Jurídica Popular have been denounced for hate crimes by Olivia Méndez, the mother of the Attorney General, Diana Salazar, the complaint refers to messages written by third parties on social networks, unrelated to the collective or Schettini. There is an attempt to link this collective with armed groups, for which the Attorney General has even requested protective measures against the collective and criminal assistance from the United States to investigate them.⁹⁸

The case of Freddy Carrión and his family stands out as a worrying example of the intersection between the exercise of public functions in defence of human rights and the reprisals that can arise in contexts of high political and social polarisation. Freddy Carrión's work as Ombudsman, particularly his courageous denunciation of possible crimes against humanity and corruption, placed him in a position of confrontation with powerful state actors.

⁹⁵ Editorial Staff (2022, March 9). The Carrión case falls: this is the evidence that Diana Salazar wanted to hide. Radio La Calle. <https://radiolacalle.com/esta-es-la-prueba-que-diana-salazar-quiso-ocultar-en-el-caso-carrion/>.

⁹⁶ Editorial Staff (2021, 14 September). The sexual abuse complaint against Freddy Carrión was not made by the alleged victim. Radio La Calle. <https://radiolacalle.com/la-denuncia-por-abuso-sexual-en-contra-de-freddy-carrion-no-la-hizo-la-victima/#:~:text=La%20supuesta%20v%C3%ADctima%20nunca%20habr%C3%ADa,el%20pasado%20de%20septiembre.>

⁹⁷ Editorial Staff (2023, May 19). Prosecutor's Office withdraws Carrión's family from the Witness Protection Service. Radio La Calle. <https://radiolacalle.com/fiscalia-retira-del-servicio-de-servicio-de-proteccion-de-testigos-a-la-familia-de-carrion/>.

⁹⁸ Schettini, P. [@PrisSchettini] (2023, 13 September). Attorney General uses the institution for personal purposes -They ask the Judge of Quito for protection measures to silence us for having denounced the plagiarism and procedural fraud of #DianaSalazar.... (Post with video attached). X. <https://x.com/PrisSchettini/status/1702120146213437817?s=20>.

7. Julian ASSANGE

Julian Assange is an Australian journalist, activist, and founder of WikiLeaks.⁹⁹ His life has been dedicated to working for the right to freedom of the press and access to information for citizens, whether for social, political or advocacy purposes.¹⁰⁰

Julian Assange became an Ecuadorian citizen in December 2017 while in asylum in the Ecuadorian Embassy in the United Kingdom. However, since April 11, 2019, the government of Lenin Moreno decided to withdraw his asylum status and suspended his Ecuadorian citizenship on the grounds that it was illegally granted since, according to the Minister of Foreign Affairs and Human Mobility, the respective procedure was transgressed.

On July 23, 2021, it was decided that Ecuadorian nationality should be withdrawn. In view of this situation, an appeal in cassation was lodged on October 5, 2021.

On June 1, 2023, the cassation appeal hearing was scheduled to take place, where the technical defenders of the Ministry of Foreign Affairs and Human Mobility, as well as the State Attorney General's Office, appeared.

Once the respective hearing was over, the Court of Cassation withdrew to deliberate to adopt a decision; however, once the procedural act was reinstated, the parties were informed that a new date would be set on which the sentence would be notified.

Despite this provision, to date no ruling has been adopted and, on the contrary, it has been indicated that there is no unanimous, majority criterion, but rather that three positions have arisen, without reaching a jurisdictional consensus. By virtue of this atypical attitude, the president of the chamber has called upon other judges to generate a majority decision, in accordance with article 203 of the Organic Code of the Judiciary, which provides as follows:

“ Majority required for a decision - An absolute majority of votes is required for a decision of the chambers.

If this majority is not obtained, the co-judges shall be called; if a majority is not obtained either, the President of the National Court or of the Chamber shall have the casting vote”.

⁹⁹ WikiLeaks is a news portal that has been publishing documents of public interest from anonymous sources since 2006. The platform designed a system of IP firewalls to prevent anyone, not even the news platform itself, from being able to identify the whistleblowers who issued this documentation. Thanks to the information published by WikiLeaks, multiple human rights violations around the world have been revealed.

¹⁰⁰ Executive Secretariat (2022). The government of Ecuador grants political asylum to Julian Assange, founder of Wikileaks. National Human Rights Council of Mexico. <https://www.cndh.org.mx/index.php/noticia/el-gobierno-de-ecuador-concede-asilo-politico-julian-assange-fundador-de-wikileaks>.

Finally, it should be noted that confidential information has been obtained, in which it was pointed out that there is already a unanimous sentence, despite which, and once they were supposed to sign this document, they withdrew from doing so, postponing it until the merit-based competition for judges of the National Court of Justice is completed, in which there would be contestants who would be part of this court of cassation.

It is worrying that judges who did not attend the oral and adversarial hearing, make up this cassation chamber and issue a sentence, when they were not present at the act of substantiation of the appeal presented and analysed.

8. Ola BINI

Since his arrest on April 11, 2019, Swedish open-source software developer and computer security expert Ola Bini has been the victim of persecution by the Ecuadorian government and accused of illegal use of a communications system. He was released after 70 days in prison, but the persecution has not stopped.

After almost four years of a criminal trial marred by irregularities, delays, and violations of the rights of the defence, his right to a fair trial finally prevailed on January 31, 2023, when he was acquitted following a unanimous verdict issued by the Criminal Guarantees Court of Pichincha (Ecuador). But almost a year after the sentence was handed down, the oral judgment issued at the hearing has still not been published in writing and the precautionary measures against Ola Bini remain in force.

Ola Bini is under a periodic reporting obligation to the Public Prosecutor's Office, which does not register him, he remains unable to leave Ecuador, use his bank accounts or recover several of his devices seized in 2019.

The prosecution appealed the acquittal decision to the same court. Ola Bini's defence filed an appeal of recusal against two of the three judges on the Tribunal on the grounds that they had previously denied him the right to defend himself freely and upheld the decision to imprison him for 90 days. However, these two members were upheld. For this reason, in November 2023, Ola Bini's defence asked the National Court of Justice to form a new impartial tribunal.

The independence of the judiciary has been seriously compromised. Cases have been observed where judicial decisions appear to be influenced by political interests, which has led to a deterioration of the rule of law in the country. The stories presented here are not only testimonies of the current situation in Ecuador, but also a call for reflection and action.

III. Criminal violence and insecurity

A. Background

During Rafael Correa's term in office (2007-2017), a security policy was implemented. This approach resulted in a series of legal, institutional, and operational reforms that contributed significantly to the strengthening of the security system in the country. Among the most prominent measures are:

- The passage of the Law on Public and State Security, which replaced the old National Security Law and provided a new legal framework for citizen security, national defence, and strategic intelligence.¹⁰¹
- The creation of the Coordinating Ministry for Security, which played a key role in coordinating and articulating the actions of the different security sector agencies, such as the Ministry of the Interior, the Ministry of Defence, the National Police, the Armed Forces, and the National Intelligence Secretariat.¹⁰²
- Investments were made in infrastructure, equipment, technology, training and professionalisation of members of the National Police and the Armed Forces. In addition, working conditions and salaries were improved, which contributed to raising the quality of the security service provided to the population.¹⁰³
- Crime prevention policies were deepened, with programmes that sought to address the socio-economic causes of crime. Efforts were made to integrate street gangs into society through social inclusion programmes, which had a positive impact on reducing the homicide rate.¹⁰⁴
- Regional and international security cooperation was promoted, especially with neighbouring countries and multilateral organisations, to address common threats such as drug trafficking, organised crime and terrorism.¹⁰⁵

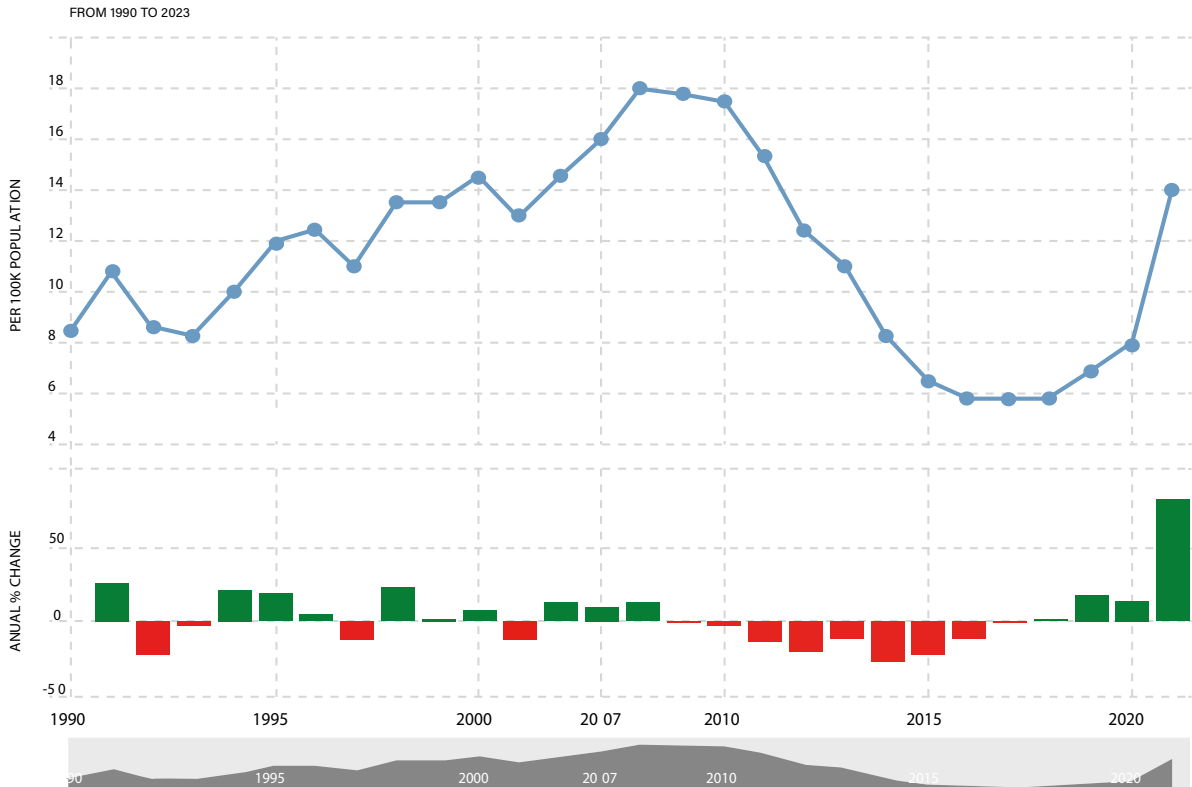
¹⁰¹ Editorial Staff (2022, 7 March). The security policy of the Correa government guaranteed peace and tranquillity to Ecuadorians. Confirmado.net. <https://confirmado.net/2022/03/07/la-politica-de-seguridad-en-el-gobierno-de-correa-garantizo-paz-y-tranquilidad-a-los-ecuatorianos/>.

¹⁰² León, J. (2007, 5 May). Order, security and institutionality in the Correa administration. La Tendencia No. 05. <https://repositorio.flacsoandes.edu.ec/handle/10469/4957>.

¹⁰³ Bachelet, P. and García, M. (2015, 13 February). What about the highest paid police force in Latin America? Blog Inter-American Development Bank. <https://blogs.iadb.org/seguridad-ciudadana/es/que-ocurre-cuando-se-tiene-la-policia-mejor-pagada-de-america-latina/>.

¹⁰⁴ Brotherton, D. and Gude, D. (2018, March). Social inclusion from below. Discussion Paper No. IDB-DP-578. Inter-American Development Bank. <https://publications.iadb.org/publications/spanish/viewer/Inclusion-social-desde-abajo-Las-pandillas-callejeras-y-sus-posibles-efectos-en-la-reduccion-de-la-tasa-de-homicidios-en-el-Ecuador.pdf>.

¹⁰⁵ Editorial office (2022, 7 March). The security policy of the Correa government guaranteed peace and tranquillity to Ecuadorians. Confirmado.net. <https://confirmado.net/2022/03/07/la-politica-de-seguridad-en-el-gobierno-de-correa-garantizo-paz-y-tranquilidad-a-los-ecuatorianos>.



Lenín Moreno's term in office in Ecuador (2017-2021) marked a significant shift from the security policies previously implemented by Rafael Correa. According to an analysis published by Jacobin magazine, Moreno, who was initially seen as the successor to Correa's policies, quickly veered towards a neoliberal approach, making a deal with the International Monetary Fund (IMF).¹⁰⁶ This shift resulted in significant budget cuts and the implementation of austerity measures that negatively affected several sectors, including public security.

Under the Moreno administration, public security spending was reported at \$3.121 billion in 2021, with a \$58 million under-execution. Although in 2022 the budget increased to \$3.398 billion, approximately \$192 million was not executed. This contrasts with Correa's approach, who in 2017 allocated \$3.5 billion to the security sector, achieving a 98 per cent execution rate.¹⁰⁷

In the context of Guillermo Lasso's government, security spending was 2.14 billion dollars until August 2023, with a marginal increase of 5%, despite the growing crisis of insecurity and violence related to drug trafficking.¹⁰⁸

¹⁰⁶ Goodfriend, H. (2023, 9 December). Ecuadorian Migrants Fleeing to the US Are Refugees of Right-Wing Rule. Jacobin. <https://jacobin.com/2023/09/ecuadorian-migrants-lenin-moreno-refugees-right-wing-rule>.

¹⁰⁷ Idem.

¹⁰⁸ Tapia, E. (2023, 4 September). Security: government spending not enough to face Ecuador's worst crisis. Primicias. <https://www.primicias.ec/noticias/economia/seguridad-presupuesto-gasto-publico-crisis/>.

A UN report on Ecuador also links crime to poverty and criticises the government for failing to end forced labour in slave-like conditions, particularly among minorities. This report emphasises the need to address insecurity as a problem of poverty and lack of economic opportunity, not just from a law enforcement perspective.¹⁰⁹

These elements highlight the complexity of the challenges Ecuador faces in terms of security and social justice, and the importance of implementing comprehensive policies that address both the causes and symptoms of violence.

B. Current situation

The current situation is characterised by an alarming increase in criminal violence, kidnappings, extortion, as well as an increase in homicides and robberies perpetrated by gangs and cartels operating in the country.

Over the past year, Ecuador has witnessed an alarming increase in violence and insecurity, marking a dramatic departure from its previously more peaceful record. This trend represents a serious violation of the right to life and affects both the civilian population and the authorities. This worrying increase is largely due to the growing presence and influence of criminal organisations and drug cartels, which have created a climate of fear and contributed to a palpable atmosphere of impunity.

The statistics speak for themselves: compared to previous years, murders and other violent acts have increased significantly, making violence one of the most common causes of death in the country, surpassing even previously prevalent illnesses such as influenza, pneumonia, and traffic accidents. This stark reality has catapulted security to become one of the main concerns of citizens and a significant challenge for the new government.

The impact of this situation is multidimensional, affecting not only public security, but also the country's social welfare and economy. Underlying factors such as lack of opportunities, social inequality and possible shortcomings in security policies are exacerbating this crisis. The situation has created a vicious cycle where violence breeds more violence, and communities are caught in a spiral of fear and hopelessness.

Looking beyond Ecuador's borders, this situation is exceptional even in the Latin American context, a region that has struggled with problems of violence and drug trafficking for decades. The Ecuadorian situation stands out for its intensity and rapid escalation, which calls for urgent attention and specific measures.

¹⁰⁹ Garcia, R. (2023, 8 September). UN report on Ecuador links crime with poverty, faults government for not ending bonded labor. Independent. <https://www.independent.co.uk/news/ap-ecuador-mexico-city-quito-lenin-moreno-b2408257.html>.

In narrative terms, the personal stories of those affected by the violence illustrate the human cost of this crisis. From families torn apart by the loss of loved ones to young people driven to crime by a lack of opportunity, Ecuador's social fabric is under unprecedented strain. These personal accounts put a face to the statistics and highlight the urgency for effective and compassionate action.

C. Extortion, homicide, and street robbery

In 2022, Ecuador witnessed an alarming increase in its crime rate, specifically in terms of homicides. During this year, the country registered 4,632 violent deaths, a figure that represents double the number of murders reported in 2021, when 2,131 cases were counted. This 82% increase in violent deaths placed Ecuador as one of the countries most affected by violence in the region, surpassing even nations traditionally associated with high levels of crime such as Mexico. The impact of this increase is clearly reflected in the homicide rate per 100,000 inhabitants. In 2022, this rate reached 25 homicides per 100,000¹¹⁰ people, a significantly high number that highlights the gravity of the situation. This figure not only indicates the magnitude of the problem Ecuador faces in terms of violence, but also underlines a worrying change in the country's security trend. Until recently, Ecuador was considered a relatively peaceful country in terms of violence and crime. However, this escalation in homicides has transformed the nation's perception and reality in the regional context.

The year 2023 marked a grim turning point in Ecuador's history in terms of violence and crime. During this year, the country registered a total of 7,607 violent deaths,¹¹¹ a figure that not only surpasses the already alarming numbers of 2022, but sets a grim record, making 2023 the most violent year in Ecuador's history.

The magnitude of this escalation can be measured in terms of the frequency of homicides: an average of 21 violent deaths every 24 hours. This constant and high rate of violence raised the country's murder rate to 45 per 100,000 inhabitants. To put this into perspective, this means that every day, Ecuadorian communities faced a level of violence that resulted in multiple deaths, a reality that had a profound impact on society.

Looking at the most affected regions, the cities of Durán, Guayaquil, Samborondón and Daule stand out as the areas with the greatest increase in violence. In these areas, violent deaths increased from 1,446 in 2022 to 2,560 by the end of 2023. This increase not only reveals the gravity of the situation, but also the concentration of violence in certain geographical areas, which poses challenges in terms of security and crime prevention.

¹¹⁰ Mella, C. (2023, 13 August). Ecuador: from a peaceful country to one of the most violent in the region. El País. <https://elpais.com/internacional/2023-08-13/ecuador-de-pais-tranquilo-a-uno-de-los-mas-violentos-de-la-region.html>.

¹¹¹ González, M. (2023, 23 October). Ecuador registers an average of 21 homicides per day. Primicia. <https://www.primicias.ec/noticias/seguridad/personas-asesinadas-promedio-diario-ecuador/>.

Particularly alarming is the case of the Nueva Prosperina neighbourhood in Guayaquil. With a homicide rate of 114 per 100,000 inhabitants, this area has reached one of the highest rates of violence on the planet. As far as women are concerned, from 1 January to December 31, 2023, 583 women were victims of violent deaths in Ecuador, including 443 with premeditation. Of these, 463 lived in the Coast region.¹¹² This not only underscores the severity of the crisis in certain communities, but also reflects how violence can concentrate and escalate in specific areas, creating environments of extreme danger and despair for their inhabitants.

These data reflect an alarming increase in crime in Ecuador in recent years, with the year 2023 presenting even more worrying figures than the previous year. The increase in criminal violence, kidnappings, extortion, as well as the rise in homicides and robberies perpetrated by gangs and cartels operating in the country, is a cause for deep concern, especially in the provinces of Guayas and Esmeraldas. In 2022, 40 cases of kidnapping were registered, while in 2023, this figure rose to 122, which is an alarming increase and a serious threat to the security of citizens.

These criminal groups employ tactics such as assassinations, car bombings and extortion to eliminate rivals, attack authorities or intimidate traders. These acts are a blatant violation of citizens' right to life and personal security, and a reflection of the state's inability to guarantee public order and prevent the spread of crime. This deterioration in public security also contributes to an atmosphere of insecurity and distrust among the population, which further undermines the quality of life and stability of Ecuadorian citizens.¹¹³

Car bombs have been used alarmingly to attack both public and private buildings, particularly those linked to security and justice. According to information provided by the National Police, during the night of Wednesday, 31 August and the early hours of Thursday, September 1, 2023, four car bomb incidents were detected in the cities of Quito and Machala. Fortunately, these attacks did not result in fatalities, but did cause significant material damage. The police hypothesise that these acts are a response by a criminal gang protesting the intervention measures being carried out in the prisons, with the aim of disarming inmates.¹¹⁴

One form of extortion that has had a devastating impact on the commercial sector is what is known as "vacuna", which involves the demand for money in exchange for not causing damage or allowing the normal operation of a business. According to a report covering the period between January and June 2023, more than 6,500 complaints of extortion have been registered in Ecuador, an alarming increase from the 3,188 complaints reported in 2022.

¹¹² La Posta. [@LaPosta_Ecu] (2024, 6 January). 2023 was a violent year for women, especially on the Ecuadorian coast. See the figures for femicides and violent deaths. @a_kcer (post with images attached). X. https://twitter.com/LaPosta_Ecu/status/1743414574098067912/photo/2.

¹¹³ Mella, C. (2023, 9 April). Guayaquil, la ciudad ecuatoriana donde cunde el terror del crimen organizado. El País. <https://elpais.com/internacional/2023-04-09/guayaquil-la-ciudad-ecuatoriana-donde-cunde-el-terror-del-crimen-organizado.html>.

¹¹⁴ Mella, C. (2023, 31 August). The explosion of two car bombs puts Quito on alert weeks before Ecuador's elections. El País. <https://elpais.com/america/2023-08-31/el-estallido-de-dos-coches-bomba-ponen-en-alerta-a-quito.html>.

It is particularly worrying that the city of Guayaquil is the most affected, with more than 60% of extortion cases reported in the whole country.¹¹⁵

These extortions have had a devastating impact on the economy, causing significant financial losses, the closure of numerous businesses and increased unemployment. Extortion, in the form of “vacuna” or other forms, has created a climate of insecurity and fear among entrepreneurs, who are forced to pay significant sums of money to protect their businesses and themselves.

The result of these extortions is decreased business investment, reduced economic activity and ultimately job losses when businesses are forced to close due to financial pressure and intimidation. This situation not only negatively affects business owners, but also the workers who depend on those jobs to support their families.

It is essential that the authorities take effective measures to combat extortion and ensure the safety of both businesses and the workforce to protect the economic and social stability of the country.

D. Youth and the hitmen

The increase in cases of contract killings is of great concern. Criminal gangs are resorting to increasingly extreme and ruthless tactics, recruiting vulnerable and desperate young people from impoverished urban areas and offering them considerable sums of money in exchange for carrying out criminal activities. This practice is particularly alarming because it puts the lives and futures of these young people at risk, trapping them in a cycle of violence and crime. Children who refuse to accept these contracts often face devastating consequences, such as the threat of death or false accusations that result in wrongful convictions and prison sentences. The exploitation of children in criminal activities is a flagrant violation of their rights and a social tragedy that must be urgently addressed.

The use of motorbikes by these hitmen adds an additional element of danger and efficiency to their operations, allowing them to carry out assassinations more quickly and evade authorities more easily. This is reflected in the increase in motorbike theft by 2023, making motorbikes one of the most stolen items. Importantly, this trend towards organised crime, together with the exploitation of minors, generates a generalised atmosphere of insecurity and undermines confidence in the institutions responsible for maintaining peace and security in the country. It is crucial that concrete measures are taken to address these problems and protect both vulnerable young people and society.¹¹⁶

¹¹⁵ Editorial office (2023, 14 September). Militarisation of prisons generates crisis and opportunity for criminal gangs. Primicias. <https://www.primicias.ec/noticias/seguridad/militarizacion-carceles-crisis-oportunidad-bandas-criminales/>.

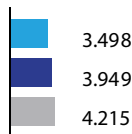
¹¹⁶ González, M. (2023, 21 November). Insecurity: the figures of the chaotic scenario left by Guillermo Lasso’s government. Primicias. <https://www.primicias.ec/noticias/seguridad/inseguridad-guillermo-lasso-ecuador-muertes/>.

From January 1st, to September 30, of:

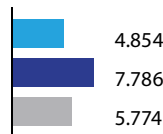
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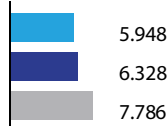
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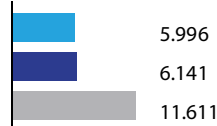
Of motos



Of houses



Of autos



To people



Statements by Olivier De Schutter, UN Special Rapporteur on extreme poverty and human rights of September 8, 2023, underline the critical connection between the lack of job opportunities, poor education, and the rise of organised crime in Ecuador. Young people’s vulnerability to recruitment by criminal gangs is deeply rooted in the lack of prospects and lack of viable options in their lives.

Moreover, the actions of these criminal gangs not only perpetuate poverty by extorting small businesses, but also disrupt access to education, which has a devastating impact on children’s development. This atmosphere of fear and desperation is leading to a growing exodus of Ecuadorians seeking a safer life of opportunity elsewhere.

The Special Rapporteur’s words emphasise the urgent need to invest in the well-being of the Ecuadorian population, especially in creating jobs, improving education, and implementing effective social policies. Breaking this vicious cycle of poverty and violence requires a determined commitment on the part of the government and the international community to address the root causes of these problems and ensure a brighter future for the people of Ecuador.¹¹⁷

E. Massive degradation of the right to life and for the physical integrity of persons deprived of their liberty

In recent years, Ecuador has faced a severe and growing prison crisis, marked by a disturbing increase in violence, overcrowding, and structural deficiencies. This context raises serious concerns from a human rights perspective.

¹¹⁷ Centro de Prensa (2023, 8 September). Ecuador: Rising violence should be a wake-up call to urgently address poverty, says UN expert. Office of the UN High Commissioner for Human Rights. <https://www.ohchr.org/es/press-releases/2023/09/ecuador-surgiving-violence-must-be-wake-call-urgently-address-poverty-says-un>.

Prisons in Ecuador have been the scene of recurrent episodes of extreme violence. This phenomenon, exacerbated by chronic overcrowding, has resulted in numerous deaths and injuries. In 2023, the situation reached a critical point with multiple violent incidents, including gang clashes and riots.

In August 2022, the first prison census in Ecuador was carried out by the National Institute of Statistics and Censuses (INEC). According to Technical Bulletin n°02-2023-CP, published in May 2023, a total of 31,321 persons deprived of their liberty were interviewed, of whom 29,356 were men and 1,965 were women. The data reveals that 40% of the Ecuadorian prison population is in the 18-29 age range, and a significant 37.2% of women in prison are between 18 and 22 years old. Furthermore, it is important to note that most prisoners have less than a basic education.¹¹⁸ The data revealed a predominantly young prison population, with a large percentage of prisoners with low levels of education. These factors are indicative of significant challenges in terms of rehabilitation and social reintegration.

Among the population deprived of liberty who report having a sentence, which amounts to 26,134 persons, it is observed that most of them face charges for illicit trafficking of substances, with a total of 7,347 cases. This is followed in number of cases by charges for the crime of robbery, with 5,092 cases, and charges for homicide/murder, with a total of 3,898 cases.

The most common grounds on which persons deprived of their liberty are charged reflect the persistent violence that prevails in society outside prisons. This situation is exacerbated by the lack of state control, which has led to prisons becoming a breeding ground for rampant violence. In this context, detained criminal gang members compete for control of cocaine distribution and export, resulting in the orchestration of repeated massacres nationwide since 2021.

This series of 14 killings has resulted in the loss of more than 500 inmates' lives in five different prisons in the country. Alarming, 59% of the victims are young people. These tragic events highlight a flagrant violation of the right to life and physical integrity of prisoners, while pointing to the responsibility of the state, either by omission or complicity, in these events. It is important to highlight that these events transcend the prison walls, generating a profound climate of insecurity and fear, not only among the prisoners' families, who live in constant anxiety for the safety of their loved ones, but also among the public.

1. Violence and Ward Assignment in the Ecuadorian penitentiary system

The allocation of inmates to wards based on their alleged affiliation to criminal gangs is a worrying practice that has been identified in Ecuador's prison system. This classification strategy, which is often carried out without a framework of transparency and consistency, has exacerbated violence within

¹¹⁸ Arroyo, F. (2023, 30 December). Ecuador hits rock bottom in 2023 and ends up as the most violent country in Latin America. Agencia EFE. <https://efe.com/mundo/2023-12-30/ecuador-toca-fondo-en-2023-y-termina-como-el-pais-mas-violento-de-america-latina/>.

prisons, creating and perpetuating conflicts between inmates.

According to José Serrano, former interior minister of Ecuador, during the government of Rafael Correa there was a regulation that classified inmates in prisons according to their level of danger. This regulation was later repealed in the government of Lenín Moreno. The repeal of this classification system could have had a significant impact on prison management, possibly contributing to the current prison crisis characterised by violence and control of prisons by criminal gangs. This change in prison policy illustrates how government decisions can have profound effects on prison security and management.

Grouping inmates according to gang alliances not only perpetuates existing rivalries, but also fosters the creation of new feuds and internal tensions. This dynamic turns prisons into zones of ongoing conflict, where violent confrontations are common and often deadly. It facilitates the struggle for control of illicit activities within prisons, especially in relation to the distribution and export of drugs. This not only endangers the lives of inmates, but also further corrupts the prison system, allowing criminal gangs to operate more effectively within prisons.

This type of classification, rather than promoting an environment that facilitates the reformation and education of prisoners, practices further immersing them in the cycle of violence and criminality. This practice poses serious security risks, not only for inmates, but also for prison staff. It also violates the human rights of prisoners by exposing them to increased risk of violence and denying them the opportunity to rehabilitate themselves in a safe and constructive environment.

This situation has become especially critical since 2021, when multiple violent incidents and massacres were reported in different prisons in the country. Violence in Ecuadorian prisons is often controlled by criminal organisations that extort money from detainees and their families, and gang control over specific sectors of the prisons has contributed to widespread massacres and violence.

Inmates are forced to join gangs as a survival measure once they enter certain wings. This dynamic has created an environment where violence and the struggle for control have intensified, and prisons have become centres of operations for criminal activities, especially related to drug trafficking. Overcrowding and lack of trained prison staff only exacerbate this situation.

Moreover, the state has been criticised for its inaction or ineffective response to this crisis. The consequences of this practice are devastating not only for inmates and prison staff, but also for their families and society at large. Structural reforms and effective policies are urgently needed to address the root causes of this humanitarian crisis in Ecuador's prison system.

2. Between December 2022 and December 2023, Ecuador experienced an unprecedented prison crisis, with an alarming increase in violence

Estos disturbios han resaltado deficiencias críticas en el sistema penitenciario ecuatoriano, como el hacinamiento, la falta de control estatal efectivo y condiciones precarias en las instalaciones carcelarias. Durante este período, se produjeron masacres en varias ocasiones, que resultaron en la pérdida de 86 vidas:

- 3 October 2022: 15 deaths¹¹⁹ in the Social Rehabilitation Centre of Cotopaxi - Latacunga Prison.
- 5 October 2022: 13 deaths¹²⁰ at the Guayas No 1 Guayas Prison - Penitenciaría del Litoral, in Guayaquil
- 7 November 2022: 5 deathss¹²¹ at El Inca Provisional Detention Centre in northern Quito
- 18 November 2022: 10 deaths¹²² at El Inca Provisional Detention Centre in northern Quito
- 14 April 2023: 12 deaths¹²³ in the Guayas No 1 Guayas Prison - Penitenciaría del Litoral, in Guayaquil
- 22, 23 and 24 July 2023: 6 deaths¹²⁴ in the Guayas No 1 Prison - Penitenciaría del Litoral, in Guayaquil
- 25 July 2023: 18 deaths¹²⁵ in the Guayas No 1 Guayas Prison - Penitenciaría del Litoral, in Guayaquil

¹¹⁹ Editorial Office (2022, 3 October). At least 15 dead and 21 wounded in Cotopaxi prison shooting. El Comercio. <https://www.elcomercio.com/actualidad/seguridad/fallecidos-heridos-tiroteo-tiroteocarcel-cotopaxi.html>.

¹²⁰ Editorial office and agencies (2022, 6 October). A new riot in an Ecuadorian prison has left at least 13 dead and 22 injured. Infobae. <https://www.infobae.com/america/america-latina/2022/10/06/un-nuevo-motin-en-una-carcel-de-ecuador-dejo-cinco-muertos-y-23-heridos/>.

¹²¹ La República (2022, 7 November). Five inmates dead and five wounded in clashes in the Inca prison. La República. <https://www.larepublica.ec/blog/2022/11/07/cinco-reos-muertos-y-cinco-heridos-en-en-enfrentamientos-en-la-carcel-de-el-inca/>.

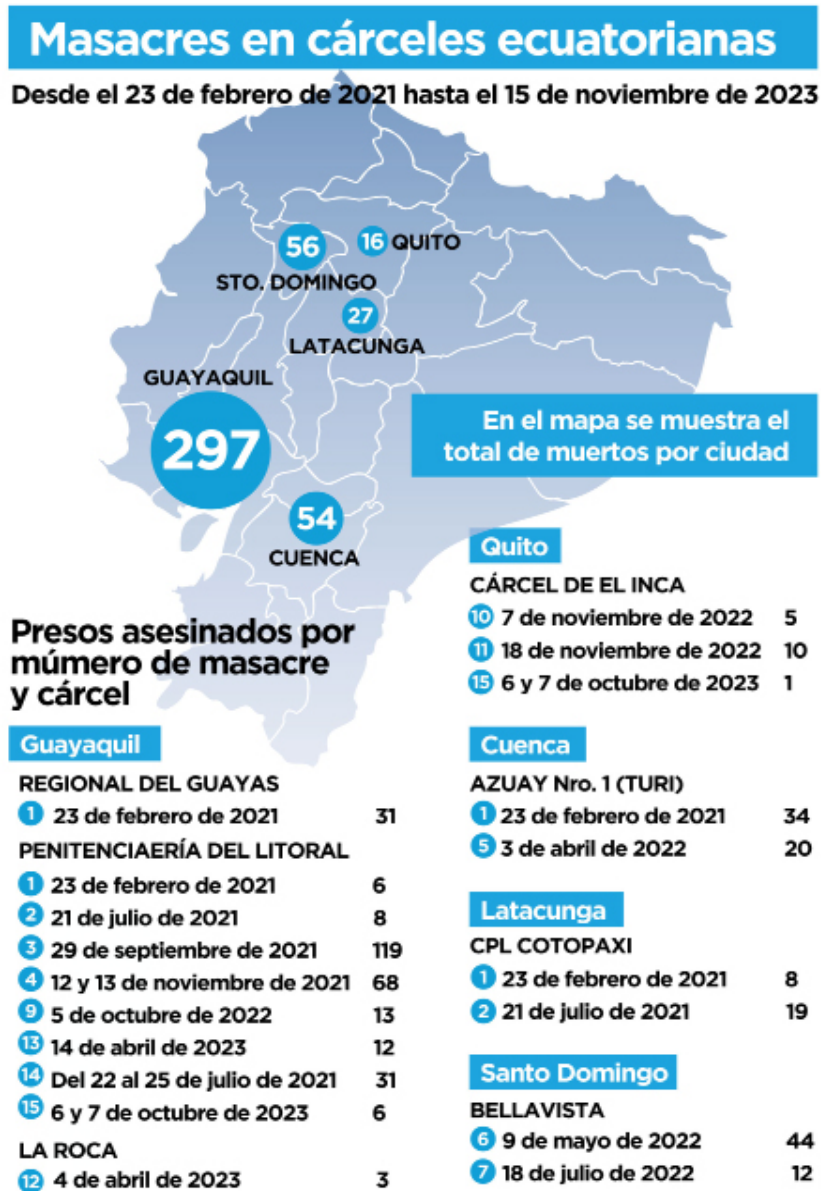
¹²² González, M. (2022, 5 August). La Roca: Drug lords transferred to a prison without perimeter security. Primicias. <https://www.primicias.ec/noticias/en-exclusiva/cabecillas-traslados-roca-sin-seguridad/V>.

¹²³ Romero, D. (2023, 16 April). 13 killed in Ecuadorian prisons between Friday 14 and Sunday 16 April. El Comercio. <https://www.elcomercio.com/%20actualidad/13-asesinados-en-carceles-de-ecuador-entre-el-viernes-14-y-domingo-16-de-abril.html>.

¹²⁴ Editorial office and EFE Agency. (2023, 24 July). The number of inmates killed in clashes in Ecuadorian prison rises to 6. Swissinfo. https://www.swissinfo.ch/spa/ecuador-c%C3%A1rcel_asiende-a-6-la-cifra-de-reos-fallecidos-en-enfrentamientos-en-c%C3%A1rcel-de-ecuador/48683116.

¹²⁵ Editorial staff and scoops (2023, 25 July). The death toll rises to 18 after three days of rioting in the Litoral prison. Confirmado.net. <https://confirmado.net/2023/07/25/a-18-a-18-asciende-la-cifra-de-fallecidos-tras-tres-dias-de-motin-en-la-carcel-del-litoral/>.

- 6 and 7 October 2023: 6 deaths in the Guayas No 1 Guayas Prison - Penitenciaría del Litoral, in Guayaquil
- 6 and 7 October 2023: 1 death at the El Inca Provisional Detention Centre, in northern Quito



3. Violence and Gang Control in the Ecuadorian penitentiary system

This has manifested itself in various acts of violence and a struggle for control within the prisons. At the end of July 2023, the situation came to a head with the start of a widespread hunger strike in 13 prisons across the country. This strike was triggered in direct response to the threat of mass transfers and deplorable prison conditions, reflecting the inmates' deep discontent and despair at their situation. It also highlights the urgent need to reform the prison system to improve the living conditions of inmates and reduce the influence of criminal gangs.

On July 24, 2023, the National Service of Integral Attention to Adults Deprived of Liberty and Adolescent Offenders (SNAI) reported that 96 prison guards in five prisons (Cotopaxi, Azuay, Cañar, Napo, and El Oro)¹²⁶ were being held by prisoners. Although the detained officials were in good condition, the incident highlights the vulnerability and risks to which prison workers in Ecuador are exposed. The situation reflects not only the power and influence of inmates within prisons, but also the deficiencies in security and control measures that need to be urgently addressed to ensure the safety of prison staff.

Testimonies from prison guards reveal the co-optation of many of their colleagues by criminal gangs, either through fear, extortion, or bribes. One particularly striking testimony noted that some prison guards feel that they would only be safe if criminal gangs eliminated them, as this would provide them with a guarantee against the orders of organised crime leaders who force them to collaborate with them.¹²⁷

This is evidence of the serious influence of organised crime in prisons and highlights the urgent need to implement effective measures to protect and support prison staff in the face of these threats. Prisoners and their families in Ecuador lack the organisational means and political leverage to push for meaningful change. The lack of effective tools to address the root causes of violence has led to growing tension in prisons, resulting in riots and violent clashes. All this underscores the urgent need for structural reforms and effective policies that address both prison conditions and the broader factors that contribute to violence and insecurity in the prison system.

Even journalists investigating this issue face threats. In March 2023, Karol Noroña, a journalist for the Quito-based independent website GK, reported an assassination attempt on the director of the women's prison in Guayaquil, as well as conducting interviews with inmates about the alarming homicide rate inside prisons.

¹²⁶ Navarrete, B. and Bastias, F. (2023, 28 July). Outdoor monitoring at Penitenciaría del Litoral - Pronunciamiento. Permanent Committee for the Defence of Human Rights. <https://www.cdih.org.ec/ultimos-pronunciamientos/605-monito%20reo-en-exteriores-de-penitenciaria-del-litoral-24-julio-2023.html>.

¹²⁷ Editorial Staff (2023, 4 August). Violence on the streets and in prisons in July 2023: everything we know. GK. <https://gk.city/2023/07/25/clashes-prisons-july-2023-all-we-know/>.

On May 24, 2023, a source alerted her to a death threat from a criminal gang leader because of her work. Karol Noroña was forced to flee Ecuador and plans to return when she can count on security guarantees for her return.

IV. Conclusion

In 2023, Ecuador was plunged into a profound human rights crisis marked by an erosion of the rule of law that has reached alarming levels. This erosion is manifested through multiple and serious violations of fundamental rights, reflecting a significant degradation of the democratic and legal principles that underpin a just and equitable society. The crisis has been exacerbated by several interrelated factors.

The political crisis and the deterioration of the rule of law in Ecuador have led to profound institutional instability. This situation has eroded public confidence in democratic institutions and undermined their ability to protect fundamental rights. The independence of the judiciary, an essential pillar of any democracy, faces unprecedented challenges, manifested in attacks and threats against judicial officials, which compromises the impartiality and effectiveness of the administration of justice.

In the area of prisons, the situation is distressing. Uncontrolled violence in prisons, evidenced by massacres and acts of violence, reflects critical deficiencies such as overcrowding and lack of effective control by the state. These conditions have led to serious violations of the human rights of inmates and prison guards, including their fundamental right to life and physical integrity.

Political persecution and criminalisation of dissent are also of concern. The use of the judicial and media system as a tool to persecute political opponents has created a climate of fear and repression, eroding basic democratic principles such as the separation of powers and freedoms of expression and association.

On the other hand, freedom of the press and expression face serious challenges. Journalists and media critical of the government are subject to violence and intimidation, which has led some to seek exile for fear of reprisals. This situation severely limits the right to free information and freedom of expression, pillars of a democratic and transparent society.

The assessment of security in Ecuador, based on official data and figures, indicates that there were significant improvements in this area during the government of Rafael Correa. However, policies implemented by the subsequent administrations of Lenín Moreno and Guillermo Lasso, marked by budget cuts and neoliberal approaches, have been linked to increased insecurity and violence. This contrast highlights the importance of stable and well-founded security policies to ensure social welfare and the effective protection of citizens.

The escalation of political and criminal violence in the country reflects a deep security crisis. Those most affected by this wave of violence are the most vulnerable groups in society, including low-income families and marginalised communities, exacerbating existing inequalities and vulnerabilities.

The assassination of Fernando Villavicencio, presidential candidate, and key figure in uniting the anti-correa's sector, marked a critical point in Ecuador's recent political history. His death, far from being an isolated crime, became a central element of political manipulation, with profound implications for the presidential elections. The subsequent murder of the alleged perpetrators of the crime, while they were in pre-trial detention, suggests a calculated strategy to influence public opinion and alter the electoral outcome, especially in the second round, against the Correa's political coidearies movement.

These events not only reveal the vulnerability and risks faced by political actors in Ecuador, but also illustrate how violence and media manipulation can be used as tools to shape the political landscape. The series of events surrounding Villavicencio's assassination and the death of the alleged perpetrators raises serious concerns about the integrity of the democratic process, the independence of the judicial system, institutional degradation, and respect for human rights in the country.

As we concluded this report on the human rights situation in Ecuador in 2023, the country was facing an unprecedented crisis at the beginning of 2024, suggesting that the new year does not augur a more optimistic outlook.

In the first days of January 2024, Ecuador was shaken by a series of violent attacks and riots. On January 9th, in particular, Guayaquil experienced a wave of attacks perpetrated by organisations considered to be terrorist organisations. There were reports of kidnappings of TC Televisión workers by a group of hooded men and attacks on other institutions, including the University of Guayaquil.

In addition, the country was affected by a security crisis in its prisons. The escape of criminal gang leader Adolfo Macías, alias "Fito", leader of Los Choneros, was reported, which provoked a series of reactions from the government. President Daniel Noboa declared the country in internal armed conflict and ordered the Armed Forces to carry out military operations to neutralise these groups, declaring a state of emergency for 60 days, including a curfew and the presence of the military in the streets and prisons.

This escalation of violence and the government's response highlight the continuing challenges facing Ecuador in terms of security and human rights. The current situation indicates that 2024 will be a critical year for the country and will require detailed follow-up for a forthcoming report documenting and analysing this year's events in the context of human rights in Ecuador.

To reverse this critical situation in Ecuador, decisive action is required both at the level of the Ecuadorian state and by the international community, including countries and organisations with significant influence in the region. It is imperative that effective strategies and resources are put in place to ad-

dress this crisis in a comprehensive manner. Considering Ecuador's central position in Latin America, its stability is crucial not only for its citizens, but also for regional stability.

The possibility of Ecuador becoming a failed state, dominated by organised crime, poses the risk of a domino effect throughout the region. The interdependence and mutual influences between Ecuador and its neighbouring countries mean that its collapse would have serious consequences not only nationally, but also regionally. These consequences could manifest themselves in terms of economic, migration, security, as well as increased drug trafficking and corruption.

It is therefore essential that the international community take an active role in supporting Ecuador at this crossroads. The engagement of international actors in promoting democracy, respecting human rights, and strengthening Ecuador's institutions is key to preventing the escalation of the crisis and ensuring a stable and prosperous future for the region.



