



RIDH | Réseau International des Droits Humains  
RIDH | Red Internacional de Derechos Humanos  
INHR | International Network of Human Rights | [www.ridh.org](http://www.ridh.org)  
info@ridh.org

## **Executive Summary –Alternative Report**

**Violence and impunity against defenders, activists and  
human rights leaders.**

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**Submitted for consideration in the 117th session of the  
Human Rights Committee  
Geneva, 2016**

**Presented by:**

**Yerbabuena Foundation  
International Network of Human Rights – RIDH**

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## INTRODUCTION

1. This is a report presented by the coalition: **Foundation Yerbabuena** and the **International Network of Human Rights (RIDH)**. The aim of this report is to denounce and showcase the violation of the rights recognized in the International Covenant on Civil and Political Rights (ICCPR) to the Committee of Human Rights at the UN in Geneva. On this occasion, we would like to submit this alternative report to be considered by the Committee concerning the non-compliance by the Ecuadorian State of Articles 2, 6, 7, 9, 14, 15, 16, 17, 18, 19, 21 of the ICCPR.

2. The report describes the main concerns of Ecuadorian civil society organizations on the violations of the right to life, to peaceful assembly, to freedom of expression, thought and association. Furthermore, it discloses cases of citizens subjected to cruel punishment and inhuman or degrading treatment. It also reveals violations to freedom and personal security, and cases of arbitrary arrests, interferences and attacks. Therefore, the State shows a complete disregard of the guarantees set by the Covenant.

3. The present report discloses emblematic cases which highlight the decline of the civil and political rights in Ecuador. The cases described intend to answer the questions sent by the Committee of Human Rights (CCPR) with reference to the obligation to respect the rights of the ICCPR.

4. The submitted cases disclose Ecuador's failure to comply with its constitutional law as well as with international treaties. The criminalization of social protest in Ecuador has become a state policy, not only with the implementation of the recently issued Organic Criminal Code, the crimes and penalties, but also with all the legal, political and social machinery created to discredit struggles and resistance mechanisms. The criminalization is evident in the transfers and sanctioning of the students who protest, in the layoff of workers and in forced rural and urban evictions.

5. Several human rights reports like the ones issued by Amnesty International, INREDH, and the Ombudsman's Office have observed the progressive criminalization of social protest and the violation of constitutional and human rights in Ecuador. Sabotage, terrorism, attack or resistance, rebellion, attacks to national security, slander, suspension of public services, illicit traffic of firearms and chemical, nuclear and biological weapons, defamation of the police and public administration are among the most prosecuted offences.

6. The last report of the FIDH notes that criminalization occurs when “ justice turns into a tool for repression against human rights defenders by adopting different methods, such as judicial harassment of movement leaders, organizations or members of communities through different criminal indictments, the adoption of administrative measures against organizations...”<sup>1</sup>

### General Context in relation to discrimination and the violation of freedom of expression in Ecuador

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<sup>1</sup> [https://www.fidh.org/IMG/pdf/equateur666espa2015hd\\_1.pdf](https://www.fidh.org/IMG/pdf/equateur666espa2015hd_1.pdf)

7. In Ecuador there have been 82 punitive procedures by the government, leaving 681 persons affected. Here are some of the most controversial cases in which excessive use of force and violations of the rights protected by the ICCPR were evident.

8. **Social organizations:** the government has stigmatized social organizations not aligned with the regime, such as the Confederation of Indigenous Nationalities of Ecuador (CONAIE), the National Union of Educators (UNE) and the United Workers Front (FUT). UNE were dubbed "hijackers of education" by the president of Ecuador. CONAIE is struggling in the pursuit of protecting indigenous land in the face of an imminent eviction. The FUT has been lynched by media and the government, and has suffered the obstruction of its leaders' union participation. Paul Velasquez, Enver Orna and Edwin Sanchez, three young leaders, were arrested after the march on July 17, 2014.

9. **Political Organizations:** The Popular Democratic Movement, which was withdrawn from the electoral register in an illegal process, has been discredited by the President of the Republic, with epithets such as terrorists, violent, childish leftists, bullies and troublemakers. The Pachakutik Movement has also been the subject of constant aggressions with words such as: crazy indigenous people, "golden ponchos", the poncho-wearing MPD (Movimiento Popular Democrático), or 31 childish indigenous people. The Ruptura 25 Movement was branded as a traitor and sanctioned by the CNE who proceeded to eliminate their electoral registration without legal foundation.

10. **Professional Associations:** The persecution of lawyers who think differently or defend citizens charged with criminal offences is a constant practice. Professionals of the Pichincha and Guayas School that have taken up the defense of criminalized leaders were lynched by the media and harassed for their criticism of the regime. In 2015, the Judicial Council became a persecuting organ against lawyers, following criteria such as "abuse of law" to open criminal files against the professionals.

11. **Journalists:** Persecuted for exposing corruption or challenging the regime. Cristian Zurita and Juan Carlos Calderon, authors of "Big Brother", were sued for moral damages. Roberto Aguilar was called to judicial confession by Fernando Alvarado, Secretary of Communication, for his chronicles. Cartoonist Bonil's art was sanctioned by the Superintendence of Information and Communication (SUPERCOM) and a subjected to a criminal trial by a Congressman. The opinions of Gonzalo Rosero, Diego Oquendo, Ramiro Cueva, Freddy Aponte and countless journalists in Ecuador have been subjected to threats, censorship, blackmail, pressure and complaints.

12. **Fundamedios:** The Andean Foundation for Media Observation and Study suffered systematic attacks by the government for their work in the defense of freedom of expression. In September 2015, the Ministry of Communication initiated an administrative process under Decree 16 which lists "engage in party political activities" as a grounds for dissolution, because Fundamedios revealed the blog contents of two journalists: Jose Hernandez and Roberto Aguilar. National and international outrage led the SECOM to file this process as "last warning".

13. **Denouncing corruption:** The case of Paul Chambers, Victor Hidalgo, Gerardo Portillo and Jose Quispe, members of the overseeing committee constituted by the president Correa himself to investigate contracts between the State and companies linked to his brother, Fabricio Correa. The overseers concluded that Correa knew that his brother had contracts with the state. They were accused of alleged false testimony.

14. **Bullying on social networks:** The political leader Sebastian Cevallos was one of the first tweeters in the country to be prosecuted for reporting a case of nepotism. Tweeters critical of the regime have suffered blockings and suspensions of their accounts. Other users were also threatened, as was the case with the administrator of the political satire Facebook page, Crudo Ecuador on 19 February 2015. He closed the page after receiving a bouquet of flowers and a letter threatening him and his family.

15. **Unqualified deaths:** Teacher Wisuma Bosco (2009), killed during the strike of the National Union of Educators (UNE) and the Confederation of Indigenous Nationalities (CONAIE), bshot by a pellet. Freddy Taish (2013), Shuar young man killed during a military operation against artisanal mining. José Tendentza (2014), anti-mining leader who was going to participate in the Summit of the Peoples in Lima, was found dead with signs of violence. General Gabela who opposed the purchase of the helicopters Dhurv was killed in circumstances that have not yet been clarified. A similar case is that of journalist Fausto Valdivieso, who was assassinated in 2013.

16. **Corporate cases:** Pachamama Foundation, Dayuma a people without fear, Postal Workers of Ecuador, the arrest of Marcelo Rivera, FEUE president, the arrests of Shuar leaders and peasants, the Nabón Foundation. Besides the cases of Edison Cocíos, student at Mejía School, ten youths arrested in Luluncoto (Fadua Tapia, Cristina Campaña, Abigail Heras, Royce Gomez, Pablo Castro, Santiago Gallegos, Victor Vinueza, Luis Merchan, Hector Estupiñán, Cesar Zambrano), seven Cotopaxi Social leaders, teacher Rosaura Bastidas accused of terrorism, prosecution, trial teacher Mery Zamora for sabotage and terrorism, the Cléver Jimenez case, the Fernando Villavicencio and Carlos Figueroa cases, San Pablo de Amali, the Technical Central Twelve, anti-mining fighter Javier Ramirez, Water Defenders: Carlos Perez, Efrain Guzman, Abel Arpi, Torture against students at Mejia National School, Luis Calderon, March from Zamora and Indigenous uprising, the Saraguro twenty-six, the Arbolito twenty-one; are the processes which are described step by step in testimonies reported in the Spanish version of this report.

17. **Torture:** Leaders and protesters arrested during the protests reported having been the victims of torture and disproportionate violence. For example, in September 2014 protests, over 90 students at Mejia School were arrested. Many of them reported receiving threats, kicks, punches and electric shock guns. One of them even reported being run over by a motorcycle. Another case reported in international bodies was that of environmentalist Margoth Escobar in 2015. By participating in demonstrations against the government, the 61 year old woman was arrested and brutally assaulted.

18. Some of the violations of rights recognized in the International Covenant on Civil and Political Rights (ICCPR) are enunciated below. The full description is included in the Spanish version of the alternative report

#### Case 1: excessive use of force against families in the urban popular sector

Right to life and prohibition of torture and cruel inhumane or degrading (articles 6 and 7, article 2 paragraph 3); Personal freedom and security, arbitrary detention or imprisonment (article 9); Arbitrary interferences and unlawful attacks (article 17); Measures to fight terrorism, observance of guarantees enshrined in the treaty and right to peaceful assembly (article 21)

#### Case 2 - in socio vivienda 2, no rights are guaranteed

Personal freedom and security, arbitrary detention or imprisonment (article 9); Equal recognition before the law (article 16); Arbitrary interferences and unlawful attacks (article 17), Rights of access to justice (article 14); Measures to fight terrorism, observance of guarantees enshrined in the treaty and right to peaceful assembly (article 21).

#### Case 3 - police degrading treatment to journalist and human rights defender

Subjection to torture or cruel treatment (article 7); Arbitrary interferences and unlawful attacks (article 17), Freedom of expression and association (articles 9 and 22); Measures to fight terrorism, observance of guarantees enshrined in the treaty and right to peaceful assembly (article 21).

#### Case 4 : Francisco Sampedro Castro

Personal freedom and security, arbitrary detention or imprisonment (article 9); Arbitrary interferences and unlawful attacks (article 17).

#### Case 5: Sebastián Cevallos, the tweeter sentenced to prison for calling on nepotism

Freedom of thought and expression (articles 18 and 19).

#### Case 6: hacking team

Arbitrary interferences and unlawful attacks (article 17); Freedom of thought and expression (articles 18 and 19), Measures to fight terrorism, observance of guarantees enshrined in the treaty and right to peaceful assembly (article 21).

## RECOMMENDATIONS

Based on the information provided in this report, which gathers information from human rights defense organizations representatives, as well as victims of civil and political rights violations, the coalition **Fundación Yerbabuena** and the **International Network of Human Rights**, offers the following recommendations for the UN Human Rights Committee to extend to the State of Ecuador in the course of its next review during the 117th session of the CCPR in June 2016:

19. Guarantee that authorities and institutions comply with their constitutional regulations, whose principles guarantee equality, liberty, and the right to a dignified life for citizens.
20. Take all appropriate measures to prevent, inspect and sanction all instances of torture and other cruel treatments, arbitrary interferences and unlawful attacks, and constant violations of freedom of expression and association.
21. Guarantee measures ensuring full *de facto* compliance with the treaty's provisions and constitutional principles which govern States. The state should guarantee the respect of all absolute rights.

22. Guarantee that legislative measures adopted to fight against terrorism do not affect the rights covered by the treaty. Furthermore, guarantee that the persons who organise and take part in public demonstrations are not accused of terrorism or sabotage in the context of social protests or other public demonstrations.
23. Act with due diligence when conducts occur that may hinder the full enjoyment of civil and political rights.