

Shadow Report Submitted to the United Nations Human Rights Committee

Introduction

This shadow report is submitted by the International Institute for Social Responsibility and Human Rights ("IIRESODH") to alert the United Nations Human Rights Committee about the grave and systematic violations of judicial independence in Ecuador. This report documents how the Ecuadorian government, in blatant violation of Articles 14.1 and 2.3 of the International Covenant on Civil and Political Rights ("ICCPR"), has undermined the rule of law, thereby compromising the fundamental rights of Ecuadorian citizens to a fair trial and an independent judiciary.

1. Subordination of the Judiciary to the Executive Power

Creation of the Transitional CPCCS and its Consequences

The February 2018 referendum marked a critical turning point in the structure of Ecuador's judicial system with the creation of the Transitional Citizen Participation and Social Control Council ("Transitional CPCCS"). This body was granted extraordinary powers, allowing the dismissal and appointment of judges and magistrates at the discretion of the executive power. This concentration of power in the hands of the executive has turned the Transitional CPCCS into a tool for political manipulation of the judiciary, violating basic principles of the separation of powers and judicial independence.

The Transitional CPCCS has acted as an extension of the government, dismissing judges and judicial officials who did not align with the regime's political interests and replacing them with individuals loyal to the executive. This direct manipulation has not only destabilized the judiciary but also created a climate of fear and insecurity among judges, who are forced to act under the shadow of political coercion.

Judicial independence is a fundamental pillar of any democracy, and its violation in Ecuador endangers the rule of law, undermining citizens' confidence in justice. The politicization of the Transitional CPCCS represents a serious threat to the integrity of democratic institutions and must be urgently reversed.

2. Lawfare and Politicization of Justice

Use of the Judicial System as a Tool for Political Persecution

In Ecuador, "lawfare"—the strategic use of the law to pursue political opponents—has become a recurrent practice under the current government. Under the administration of Lenín Moreno,

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the judicial system has been instrumentalized to persecute and neutralize political adversaries, especially those linked to former President Rafael Correa. Through flawed and manipulated judicial processes, the government has politically disqualified its opponents, eroding the very foundation of a fair trial.

The "Caso Sobornos" is a paradigmatic example of how the judicial system has been used for political purposes. In this case, several former officials and Correa allies were convicted in trials marked by blatant procedural irregularities, such as the lack of sufficient individual evidence and the violation of basic procedural rights. These convictions are not only an attack on the integrity of judicial processes but also represent a clear violation of constitutional guarantees and international human rights.

The use of the judicial system to persecute political opponents constitutes a grave violation of the right to a fair trial, as established by the ICCPR. This practice not only undermines justice in Ecuador but also threatens to set a dangerous precedent for the politicization of justice, where judicial decisions are dictated by political interests rather than being based on law and evidence.

3. Institutional Crisis and the Erosion of Judicial Efficiency

Internal Conflicts in the Judiciary

Political interference in the judiciary has unleashed an institutional crisis in Ecuador, exacerbating tensions between the Judicial Council, the Constitutional Court, and the CPCCS. These conflicts have paralyzed the effective functioning of justice, creating an environment of uncertainty and distrust in the institutions responsible for upholding legality and justice.

The case of Judge Walter Macías, dismissed by the Judicial Council for making decisions contrary to the government's interests, illustrates how the political instrumentalization of judicial institutions has been used to intimidate and control judges. The dismissal of judges who oppose political pressures creates a culture of fear and conformity, in which judges are forced to act in favor of the executive's interests to avoid reprisals.

Erosion of Judicial Capacity

Institutional conflicts have had a devastating impact on the efficiency of Ecuador's judicial system. Power struggles have delayed case resolutions and caused instability in the appointment of judges, which in turn has compromised the system's ability to administer justice quickly and fairly. This institutional instability has deepened public distrust in the justice system and undermined the judiciary's credibility.

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The efficiency of the judicial system is compromised when judges must operate in a climate of instability and fear of reprisals. Delays in case resolution and uncertainty in judicial appointments not only affect the individuals directly involved in judicial processes but also weaken the entire justice system, impacting all of Ecuadorian society.

4. Pressures and Threats from Organized Crime

Impact of Organized Crime on the Judiciary

Organized crime in Ecuador has emerged as a significant threat to the integrity and security of the judiciary. Judges and prosecutors are subjected to death threats, physical assaults, and attempts at bribery by criminal groups seeking to influence their decisions. These pressures not only compromise the personal safety of judicial officials but also jeopardize their ability to issue impartial and fair rulings.

The murder of César Suárez, a prosecutor committed to fighting corruption, tragically exemplifies the dangers faced by judicial officials in Ecuador. Despite repeated requests for protection, Suárez was killed, highlighting the state's inability to protect those involved in the fight against organized crime. This failure to provide security to judicial officials exposes the justice system to infiltration by criminal interests, increasing impunity and further weakening the rule of law.

Corruption and Intimidation of Judges and Prosecutors

The influence of organized crime on the judiciary is not limited to physical violence; it also includes systematic corruption. Criminal groups use bribes and threats to ensure that judicial rulings are in their favor. The intimidation of judges and prosecutors not only corrupts individual judicial processes but also undermines the integrity of the judicial system as a whole.

This situation has led to an increase in impunity for serious crimes, as judges and prosecutors, fearful for their own safety and that of their families, are often forced to yield to criminal pressures. The state's inability to protect its judicial officials and effectively confront organized crime reinforces a vicious cycle of corruption and impunity, further eroding public confidence in justice.

5. Lack of Protective Measures and a Culture of Impunity

State's Inability to Protect Human Rights Defenders

Despite the growing threat posed by organized crime and political pressures, the Ecuadorian government has failed to implement adequate protective measures for judges, prosecutors, and

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human rights defenders. The lack of effective protection has allowed threats and attacks against these officials to go unpunished, exposing them to constant risks of violence and intimidation.

The absence of protective measures not only endangers the lives of judicial officials but also erodes the judicial system's ability to operate independently and impartially. Without adequate protection, judges and prosecutors are forced to act under the shadow of fear, which compromises their ability to deliver justice fairly and equitably.

Urgent Need for Reform

To reverse this alarming trend, it is imperative that the Ecuadorian state implement a comprehensive and effective protection program for judges, prosecutors, and human rights defenders. This program must include physical security measures as well as legal guarantees that protect judicial officials from external pressures. Additionally, the state must commit to investigating and punishing those responsible for threats and attacks against these officials, thereby breaking the cycle of impunity that currently prevails.

The implementation of these measures is crucial not only to protect the individuals involved but also to restore public confidence in the judicial system and ensure that justice in Ecuador is truly independent and impartial.

Conclusion and Recommendations

The United Nations Human Rights Committee is in a critical position to address the grave and systematic violations of judicial independence in Ecuador. An urgent call is made to the Committee to thoroughly examine these violations and adopt the following recommendations to restore the rule of law in the country:

1. **Restore Judicial Independence:** The Ecuadorian state must immediately cease all political interference in the process of appointing and dismissing judges. It is crucial to ensure that these processes are transparent, merit-based, and free from external influences.
2. **Reform the CPCCS:** Limiting the powers of the CPCCS is essential to prevent its use as a political tool to control the judiciary. This body must operate with full independence and in accordance with principles of transparency and accountability.
3. **End Lawfare:** Judicial persecutions for political purposes must cease immediately. The state must ensure that all citizens, including political opponents, have access to a fair trial in line with international human rights standards.

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4. **Protect Human Rights Defenders:** An effective protection program for judges, prosecutors, and other human rights defenders must be urgently implemented. This program must ensure their physical safety and protect their independence from external pressures.
5. **Initiate an Inclusive Constitutional Reform:** Any reform of the judicial system must be carried out in consultation with all stakeholders, including judicial unions and civil society organizations. It is essential to ensure that these reforms comply with international standards and strengthen judicial independence.
6. **Strengthen the Response Against Organized Crime:** The state must take strong measures to combat organized crime, including actions to strip criminal groups of their economic resources and ensure the protection of judicial officials facing these threats.

Additional Recommendations:

1. **International Monitoring:** The Committee is urged to establish monitoring and follow-up mechanisms to ensure that the Ecuadorian government implements the Committee's recommendations and restores judicial independence. This could include the appointment of a special rapporteur or a working group to periodically assess the situation in Ecuador.
2. **Strengthening Democratic Institutions:** It is crucial to support reforms that strengthen democratic institutions in Ecuador, including promoting human rights education and the rule of law, both for public officials and society in general.
3. **Collaboration with Civil Society:** Encouraging greater collaboration between the Ecuadorian government and civil society organizations is essential for the implementation of effective judicial reforms. It is vital that the voices of human rights defenders are heard and protected.
4. **Support for Victims of Political Persecution:** Programs must be developed to support those who have been victims of political persecution through the judicial system, ensuring that they receive justice and adequate reparations.

This shadow report is presented with the aim of guiding the deliberations of the United Nations Human Rights Committee and contributing to a process that ensures justice and respect for human rights in Ecuador. The implementation of these recommendations is crucial to ensuring a judicial system that serves the Ecuadorian people with independence, impartiality, and justice.

References:

1. **CDH, Observaciones Finales sobre el sexto informe periódico del Ecuador**, 11 de agosto de 2016, CCPR/C/ECU/CO/6.
2. **France 24**, “Con el 98 % de las actas escrutadas, el “Sí” gana en la consulta popular de Ecuador”, 5 de febrero de 2018: [Enlace](#).
3. **PriMacías**, “Según encuestas, la única certeza es que el correísmo encabeza lid presidencial”, 22 de septiembre de 2023: [Enlace](#).
4. **El País**, “Referéndum en Ecuador: “Catapulta y otorga oxígeno al presidente””, 21 de abril de 2024: [Enlace](#).
5. **Primicias**, “Lasso acepta el triunfo del 'No' en el referendo y llama a un acuerdo nacional”, 9 de mayo de 2023: [Enlace](#).
6. **France 24**, “Referendo en Ecuador: amplio respaldo a iniciativas sobre seguridad y rechazo a reformas económicas”, 22 de abril de 2024: [Enlace](#).
7. **CNN**, “¿Cuáles son las 8 preguntas del referéndum del 5 de febrero en Ecuador? ”, 3 de febrero de 2023: [Enlace](#).
8. **Observatorio Derechos y Justicia**, “Crisis Judicial Ecuador”, septiembre-diciembre 2023: [Enlace](#).
9. **El Comercio**, “Rafael Correa respondió a Diana Salazar por el caso Sobornos, a través de sus abogados”, 10 de junio de 2024: [Enlace](#).
10. **Observatorio Derechos y Justicia**, “Crisis Judicial Ecuador”, supra.
11. **CNN**, “¿Cuáles son las 8 preguntas del referéndum del 5 de febrero en Ecuador?”, 3 de febrero de 2023: [Enlace](#).
12. **Primicias**, “Mire aquí las 11 preguntas que irán a votación en la consulta popular y el referendo”, 21 de abril de 2024: [Enlace](#).
13. **Iniciativa Global contra el Crimen Organizado Transnacional**, Global Organized Crime Index 2023, Recuperado 1 de noviembre de 2023: [Enlace](#).
14. **El Universo**, “Cuáles son las funciones del Consejo de Participación Ciudadana y Control Social”, 21 de marzo de 2019: [Enlace](#).
15. **Metro Ecuador**, “Gabriela Rivadeneira le responde a Julio César Trujillo”, 14 de mayo de 2018: [Enlace](#).
16. **El Comercio**, “Consejo transitorio advierte a la Judicatura con destitución si reactiva concurso de fiscales”, 2 de mayo de 2018: [Enlace](#).
17. **CPCCS, Boletín de Prensa Nro.99**, “EL CPCCS-T RATIFICA EL CESE DEFINITIVO DE LOS VOCALES DEL CONSEJO DE LA JUDICATURA”, 14 de junio de 2018: [Enlace](#).
18. **El Telégrafo**, “¿Cuáles son los hechos alrededor de la destitución del juez Walter Macías?”, 28 de agosto de 2023: [Enlace](#).
19. **Primicias**, “La eterna pugna entre el juez Walter Macías y el Consejo de la Judicatura”, 23 de agosto de 2023: [Enlace](#).
20. **FGE**, “Caso Vocales: sobre destitución del juez Macías”, Comunicado Oficial FGE No. 042-DC-2023: [Enlace](#).

21. **Human Rights Watch, Ecuador:** [Enlace](#).
22. **Diario Libre**, “El fiscal César Suárez engrosa la lista de magistrados y políticos asesinados en Ecuador”, 17 de enero de 2024: [Enlace](#).
23. **Noticias ONU**, “Los ataques al poder judicial en Ecuador amenazan el Estado de Derecho, advierte experta en derechos humanos”, 23 de agosto de 2023: [Enlace](#).
24. **CIDH, Comunicado de prensa “CIDH: La independencia judicial en Ecuador debe ser garantizada frente a injerencias del crimen organizado”**, 14 de mayo de 2024: [Enlace](#).
25. **CIDH, Comunicado de prensa**, “CIDH condena graves hechos de violencia en Ecuador”, 11 de noviembre de 2022: [Enlace](#).
26. **CIDH, “Informe sobre la situación de las personas privadas de libertad en Ecuador”**, 21 de febrero de 2022, OEA/Ser.L/V/II.
27. **CIDH, Resolución 1/18**, “Corrupción y derechos humanos”: [Enlace](#).
28. **Global Organized Crime Index, Criminality scores:** [Enlace](#).
29. **Corte Constitucional del Ecuador, Sentencia 2231-22-JP/23**, 7 de junio de 2023, párr. 136: [Enlace](#).
30. **Primicias**, “Casos de corrupción en riesgo de anularse por los jueces temporales”, 24 de enero de 2020: [Enlace](#).
31. **El Telégrafo**, “Ecuador: 2020 el año del ocaso de la 10/20”, 16 de septiembre de 2020: [Enlace](#).
32. **Principio 10 de los Principios básicos de las Naciones Unidas relativos a la independencia de la judicatura** adoptados por el Séptimo Congreso de las Naciones Unidas sobre Prevención del Delito y Tratamiento del Delincuente, celebrado en Milán, Italia, del 26 de agosto al 6 de septiembre de 1985, y confirmados por la Asamblea General en sus resoluciones 40/32 del 29 de noviembre de 1985 y 40/146 del 13 de diciembre de 1985.
33. **Tweet de Radio Pichincha**, "Entrevista del juez Ivan Saquicela podría afectar la validez del proceso en Caso Sobornos, coinciden juristas", 9 de abril de 2020: [Enlace](#).
34. **Informe No. 2021- 1298-DNAJU-PN** de fecha 21 de septiembre de 2021, suscrito por el General de Policía Fabián Salas Duarte, Director Nacional de Asesoría Jurídica, mediante el cual, pone en conocimiento de la Gral. Tannya Gioconda Varela Coronel, Comandante General de la Policía Nacional el informe No. 2021-1298-DNAJU-PN, mediante el cual, se da contestación a los oficios No. AN-LVJC-2021-0023-O y No. AN-LVJC-2021-0040-O remitidos por el Asambleísta Nacional Ing. Juan Cristóbal Lloret Valdivieso, mediante los cuales, ha solicitado información relacionada al caso “sobornos 2012-2016”.
35. **Relator Especial sobre la independencia de los magistrados y abogados, AL ECU 1/2020**, 10 de junio de 2020.
36. **Relator Especial sobre la independencia de los magistrados y abogados, AL ECU 2/2021**, 9 de julio de 2021.
37. **CDH, caso Oló Bahamonde c. Guinea Ecuatorial**, comunicación núm. 468/1991, párr. 9.4.

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38. **CDH, caso Jenny c. Austria**, agosto de 2008, párr. 9.3.
39. **CEDH, caso Pabla KY c. Finlandia**, Sentencia de 22 de junio de 2004, párr. 27.
40. **CDH, caso Perterer c. Austria**, supra, párr. 10.2.
41. **Corte IDH, caso Palamara Iribarne c. Chile**, Fondo, Reparaciones y Costas, Sentencia de 22 de noviembre de 2005, párr. 146.
42. **Corte IDH, caso Norín Catrimán y otros (Dirigentes, miembros y activista del Pueblo Indígena Mapuche) c. Chile**, Fondo, Reparaciones y Costas, Sentencia de 29 de mayo de 2014, párr. 208.