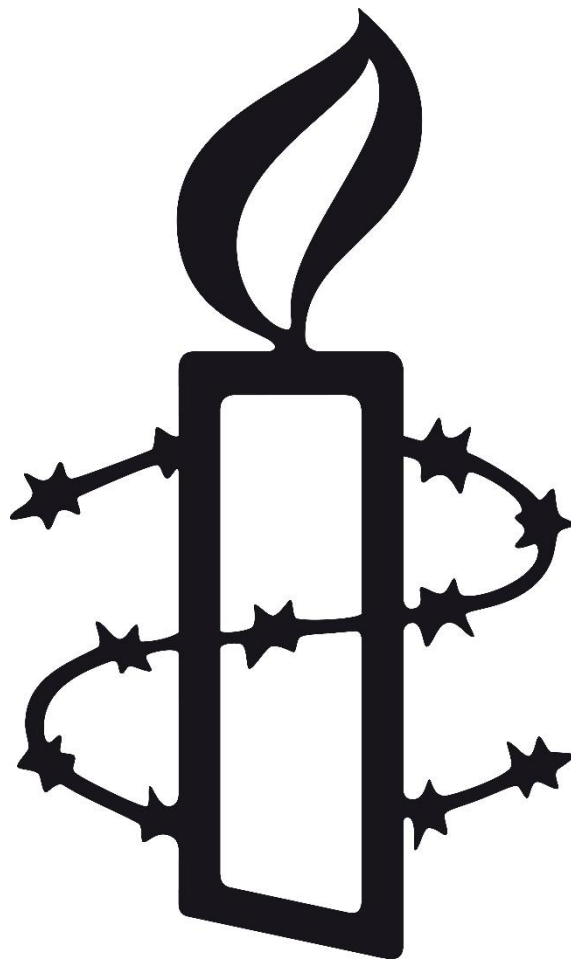


ECUADOR

SUBMISSION TO THE UN HUMAN RIGHTS COMMITTEE
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AMNESTY
INTERNATIONAL



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1. INTRODUCTION

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2. SECURITY POLICIES (ARTICLES 4, 6, 9, 10, 14 17 AND 21)

2.1 MANO DURA (“IRON FIST”) SECURITY POLICIES TO ADDRESS ORGANIZED CRIME

Violence in Ecuador has risen sharply in recent years in the wake of a spike in confrontations between organized criminal groups disputing territorial control, and between these and security forces. In 2023, the country registered one of the highest homicide rates in Latin America.¹ In response to these challenges, Ecuador's authorities have relied more heavily on the armed forces while neglecting to ensure sufficient civilian oversight. The intervention of Ecuador's armed forces in public security and prison management, including to stem the sale and distribution of drugs, have been largely based on arguments that national security and public safety are at stake. The intervention of the armed forces has led to numerous reports of possible human rights violations, including extrajudicial executions, arbitrary detentions, torture and other ill-treatment. The security challenges faced by the country come alongside a spike in poverty following the pandemic, pointing to “the important links between socio-economic conditions and the rise of crime,”² according to the UN Special Rapporteur on extreme poverty and human rights after his recent visit to the country.

Amnesty International has expressed concern on multiple occasions about the increasing deployment of armed forces in public security tasks.³ The deployment of the military in tasks typically reserved for civilian forces poses risks to human rights because the military is trained to combat an enemy and not for the protection of civilians.⁴ Amnesty International has observed in multiple countries around the world how the militarization of public security to combat organized crime has been linked to abuses that disproportionately impact the poorest and most marginalised sectors of society, enables the reliance on the use of lethal force with knock-on effects for public security more generally, and leads to serious human rights violations.⁵

As previously recognized by the UN Human Rights Committee, drug enforcement operations based on the use of force and a militarized approach have a counterproductive effect and in turn increase levels

¹ See for example: Robert Muggah and Katherine Aguirre, “Latin America’s murder rates reveal surprising new trends”, *Americas Quarterly*, 18 June 2024, <https://www.americasquarterly.org/article/latin-americas-murder-rates-reveal-surprising-new-trends/>. See also, *Insight Crime*: <https://insightcrime.org/news/special-series/ecuador-war-on-gangs/> 23 July 2024.

² End of mission statement by Mr Olivier De Schutter, UN Special Rapporteur on extreme poverty and human rights, Visit to Ecuador (28th August to 8th September 2023): <https://www.ohchr.org/en/press-releases/2023/09/ecuador-surg-ing-violence-must-be-wake-call-urgently-address-poverty-says-un>

³ See, for example: Amnesty International: <https://www.amnesty.org/en/latest/news/2023/08/ecuador-authorities-must-safeguard-human-rights-amidst-pre-electoral-violence/> 10 August 2023; Amnesty International: <https://www.amnesty.org/en/latest/news/2023/01/ecuador-militarize-public-security-endanger-human-rights/> January 202, 2023.

⁴ Inter-American Commission on Human Rights, Report on Citizen Security and Human Rights, 31 December 2009 (OEA/Ser.L.V/II), para. 100. Inter-American Court of Human Rights, Case of Montero-Aranguren et al (Detention Center of Catia) v. Venezuela, para. 78; Case of Zambrano Vélez et al. v. Ecuador, op. cit., para. 51; Case of Cabrera García and Montiel Flores v. Mexico, op. cit., para. 88.

⁵ See for example, Amnesty International, Mexico: The National Guard: International Obligations, 2019: <https://www.amnesty.org/en/wp-content/uploads/2021/05/AMR4196972019ENGLISH.pdf>. Amnesty International, Mexico: President López Obrador’s National Guard: Five Things you Should Know, December 2018: <https://www.amnesty.org/en/documents/amr41/9578/2018/en/>; Bangladesh: Killed in “crossfire”: Allegations of extrajudicial executions in Bangladesh in the guise of a war on drugs, November 2019: <https://www.amnesty.org/en/documents/asa13/1265/2019/en/> Brazil: You killed my son: Homicides by military police in the city of Rio de Janeiro, August 3 2015: <https://www.amnesty.org/en/documents/amr19/2068/2015/en/>

of violence, intimidation and corruption usually associated with illicit drug markets.⁶ Overall, the heavy reliance on militarized techniques and equipment has failed to decrease the distribution of drugs and has instead undermined the rights of millions, exacerbated the risks and harms of using drugs, and intensified the violence associated with illicit markets.

International human rights law is clear that the maintenance of public order, including in the context of anti-drug operations, must be primarily reserved for civilian police forces who should be trained and equipped with various types of weapons and ammunition to allow for a differentiated use of force and firearms in accordance with the principles of necessity and proportionality.⁷ States should only resort to deploying the armed forces in extraordinary cases and ensure that their intervention is exceptional, temporary and restricted to what is strictly necessary in specific circumstances.⁸ In such exceptional circumstances, the participation of the military must be subordinated and complementary to civilian police forces and be regulated and supervised by civilian authorities. In addition, when military personnel perform functions that would normally correspond to civilian forces, they must be subject in all respects to the same rules and procedures as those established for law enforcement officials.

Military armed forces are instructed and trained to fight an enemy in which the use of force, including lethal force, is the first choice of action. Moreover, their equipment is designed to neutralize the enemy and not to minimize damage and injury, nor to protect and preserve life.⁹ Law enforcement, on the other hand, even if carried out exceptionally by armed forces, should be based in the principle of not using force unless it is strictly necessary and proportionate for a legitimate law enforcement purpose, in accordance with international law and standards.¹⁰

2.2 STATES OF EMERGENCY AND OTHER PRESIDENTIAL DECREES IN THE FACE OF ORGANIZED CRIME

Amnesty International is concerned about allegations of possible human rights violations and crimes under international law in connection with the declaration of a state of emergency in response to increased violence in Ecuador (Decree 110 of 8 January 2024) and declaration of internal armed conflict (Decree 111 of 9 January 2024). These decrees from president Daniel Noboa are a continuation of a series of emergency decrees published by the previous presidential administration suspending a series of rights, including the right to freedom of peaceful assembly, as well as allowing both police and the armed forces a wider mandate to enter residences and premises to carry out searches, seize property and to access correspondence.

Decree 111 of 9 January 2024 declared an internal armed conflict in the country, invoking international humanitarian law under the Geneva Conventions. In addition, this decree placed emphasis on the concept of terrorism and declared over 22 drug gangs and cartels in the country not only as “belligerent non-state actors”, but also as “terrorist organizations”. The decree also revived a previous decree (never since revoked – Decree 730 of 2 May 2023), which had allowed for the deployment of armed forces in the entire national territory “to repress the terrorist threat” in the country, without placing any time limit on this order, in contravention of international standards on the deployment of armed forces for public security tasks, which call for such decisions to be extraordinary, time-bound, geographically limited, and restricted to what is strictly necessary in the specific circumstances.

In president Noboa’s address to the nation on 24 May,¹¹ he cited 26,000 joint operatives of the police and military carried out from January to May 2024. In June 2024, representatives of the Public

⁶ UN Human Rights Committee, Concluding Observations: Guatemala, 19 April 2012, UN Doc. CCPR/C/GTM/CO/3, para. 12; The Global Commission on Drug Policy, *War on Drugs*, June 2011, p. 15.

⁷ United Nations, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Adopted September 1990.

⁸ Inter-American Court of Human Rights, *Alvarado Espinoza and others v. Mexico*, 28 November 2018, para. 182.

⁹ Amnesty International, “Use of Force: Guidelines for implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials”, September 2015, p. 160; Amnesty International, “Understanding Policing: A resource for human rights activists”, p. 62.

¹⁰ UN Code of Conduct for Law Enforcement Officials, article 3; UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

¹¹ See Presidency of the Republic of Ecuador, Informe a la Nación por parte del presidente de la República, Daniel Noboa Azin: <https://www.youtube.com/watch?v=uFCerhugs1E>

Prosecutor's office told Amnesty International that it had opened 226 investigations for possible "abuse of authority" (*extralimitaciones de actos de servicio*) on the part of security forces since the declaration of the state of emergency in January 2024.¹²

The declaration of a state of emergency on 8 January 2024 was originally for 60 days, yet in March the president applied for an extension was approved by the Constitutional Court.¹³ In April, president Noboa issued Decree 218, a continuation of the declaration of internal armed conflict, which remains in place to date and has not been subject to oversight from the Constitutional Court. At the time of writing, both police and military are deployed throughout the country in the fight against organized crime and continue to refer to their efforts in the context of a state of emergency.

2.3 CONSTITUTIONAL REFORMS AND POPULAR REFERENDA SUPPORTING MILITARIZATION OF PUBLIC SECURITY

In April 2024, a national referendum passed with 72.24% of the vote allowing a broader military presence in public security tasks.¹⁴ The referendum, which contained several questions, had the purpose of approving a constitutional amendment to article 158 of the constitution that had been tabled by former president Guillermo Lasso in October 2022 and approved by the country's legislature in December 2023 pending a popular vote.¹⁵ Prior to this constitutional amendment, the deployment of armed forces could only occur following the declaration of a state of emergency. However, with this new constitutional amendment, the role of the armed forces is considered as a complementary force to be deployed alongside the national police, following requests by the police or the executive branch. According to this constitutional amendment, the deployment of the armed forces can take place by presidential decree for a maximum of 180 days, and a maximum extension of 30 days.¹⁶ The constitutional process includes oversight by the Constitutional Court and the legislature in relation to the deployment of the military.

In the same referendum in April 2024, another question was passed to allow "armed forces to carry out control of arms, ammunition and explosives, permanently, in routes, roads, highways and authorized entryways to penitentiary centers."¹⁷ According to civil society experts consulted by Amnesty International, this provision in practice allows for permanent control of arms possession by the armed forces throughout the entire country and increases the risk for of arbitrary detentions.

2.4 POSSIBLE UNLAWFUL KILLINGS AND EXTRAJUDICIAL EXECUTIONS

In an interview with representatives of the Public Prosecutor's Office,¹⁸ Amnesty International was informed of 12 investigations that had been opened for possible extrajudicial executions between 8 January to June 2024 in the context of the deployment of security forces during the state of emergency. The organization does not have additional information as to the location of these possible extrajudicial executions, or any measures taken in relation to possible perpetrators. During 2024, the president and

¹² Interview with representatives of the Directorship for Human Rights and the Directorship of Criminal Policy of the Public Prosecutor's Office on 5 Jun 2024, Quito, Ecuador.

¹³ Corte Constitucional del Ecuador, Dictamen 2-24-EE/24, 21 de marzo de 2024.

¹⁴ National Electoral Council (Consejo Nacional Electoral), Resolution of the full chamber of the Council: Resolución PLE-CLE-1-8-5-2024, 8 May 2024: [RESOLUCION-PLE-CNE-1-8-5-2024-signed.pdf](#) [RESOLUCION-PLE-CNE-1-8-5-2024-signed.pdf](#)

¹⁵ Corte Constitucional de Ecuador, Dictamen 7-22-RC/24, 5 de febrero de 2024: [e2NhcnBldGE6J3RyYW1pdGUuLCB1dWlkOic0ZTZiY2ViNS0wZWU3LTQ4YjktYTFkYi00MjY2NjUxN2RmYWYucGRmJ30=\(corteconstitucional.gob.ec\)](#)

¹⁶ Constitutional Court of Ecuador- Ruling: (Corte Constitucional de Ecuador), Dictamen 7-22-RC/24, 5 de febrero de 2024: [e2NhcnBldGE6J3RyYW1pdGUuLCB1dWlkOic0ZTZiY2ViNS0wZWU3LTQ4YjktYTFkYi00MjY2NjUxN2RmYWYucGRmJ30=\(corteconstitucional.gob.ec\)](#)

¹⁷ National Electoral Council (Consejo Nacional Electoral), Resolution of the full chamber of the Council: Resolución PLE-CLE-1-8-5-2024, 8 May 2024: [RESOLUCION-PLE-CNE-1-8-5-2024-signed.pdf](#) [RESOLUCION-PLE-CNE-1-8-5-2024-signed.pdf](#)

¹⁸ Interview with representatives of the Directorship for Human Rights and the Directorship of Criminal Policy of the Public Prosecutor's Office on 5 June 2024, Quito, Ecuador.

the armed forces have made a series of announcements since the commencement of the declaration of internal armed conflict in relation to several “terrorists eliminated”.¹⁹

Amnesty International learned of a possible extrajudicial execution by the armed forces in the Cuba neighborhood of Guayaquil on 2 February 2024. According to the information received, 19-year-old Carlos Javier Vega Ipanaque was killed after being shot by soldiers while travelling in a car with his cousin. According to the information available, neither of the young men was reportedly armed, nor did they pose a threat to military personnel. Although the armed forces claimed in a press release that they were responding to an attack and that “shots were fired to ensure the safety of personnel”,²⁰ according to statements by family members there is no evidence that the young men were armed, and the bullet wounds sustained by Carlos Javier were in highly lethal areas of his body.²¹ The armed forces’ statements at the time on X.com (formerly Twitter.com), labelled Carlos Javier Vega and his cousin as presumed terrorists. This statement was later deleted from the military’s X.com (formerly Twitter.com) account, however some media outlets published this account at the time.²² According to information received by Amnesty International, the soldiers involved in the incident were subject to investigations for “abuse of authority” (*extralimitación de uso de sus funciones*), rather than for possible extrajudicial executions.

2.5 ARBITRARY DETENTIONS

The disproportionate use of the criminal justice system to deal with drug-related offences and stem the power of organized criminal groups has created a pernicious cycle of arbitrary detention and mass incarceration. In many instances, people accused of drug-related offences have been excluded from due process safeguards in violation of the right to a fair trial.

Ecuador’s constitution requires that any person detained on the spot must be presented before a judge and charged with a specific criminal offence within 24 hours of arrest.²³ However, information gathered from civil society organizations and human rights observers indicates that security forces have carried out a series of arrests without suspicion of a specific criminal offence, resorting to the pretext of on-the-spot arrests *in flagrante delicto* with little justification for doing so. The information compiled by civil society organizations, international observers²⁴ and published in press and social media suggest that many of these arrests may be disproportionately directed against persons from groups historically subject to discrimination, including persons of African descent, Indigenous origin and those from lower socioeconomic status, as well as a focus on young people as possible suspects of criminal activity.²⁵

In his address to the nation on 24 May 2024,²⁶ president Noboa referred to 34,952 arrests of “presumed criminals” as well as 126,251 combined military-police operations carried out since January 2024.²⁷ These operations were carried out under the so-called “Plan Fenix”, announced by the president

¹⁹ See, for example: Associated Press, Ecuador: 329 detenidos y cinco personas abatidas por la fuerza pública tras secuencia de ataques, 10 January 2024: <https://apnews.com/world-news/general-news-600ad0967829e48d89d8d0e9a9e71a84>; EFE, Noboa decreta nuevo estado de excepción en Ecuador, que llama “fase 2 de guerra” al crimen, 23 May 2024: <https://efe.com/mundo/2024-05-23/el-gobierno-de-ecuador-anuncia-un-nuevo-estado-de-excepcion-contra-el-crimen-organizado/> 23 May 2024.

²⁰ Facebook. Armed Forces of Ecuador: <https://www.facebook.com/FFAAEcuador/posts/pfbid02qgiQhodj5yPeM6Ta9hz8vDZFckXzpjWsBjLD4QaDHdzZS2U7VPLvbqTWwVcc2RV>

²¹ See: CDH Guayaquil, Ejecución Extrajudicial Barrio Cuba: <https://www.cdh.org.ec/testimonios/625-ejecucion-extrajudicial-en-barrio-cuba.html> ; X @CDH.GYE, Ejecución Extrajudicial Barrio Cuba: <https://x.com/CDHGYE/status/1756462172031336944?t=gOYEZyKx2cd-SEnLYTfdxw&s=19>

²² See for example: El Telégrafo, Terroristas fueron aprehendidos ante intento de ataque a retén militar, 2 February 2024: <https://www.eltelegrafo.com.ec/noticias/nacionales/44/terroristas-fueron-aprehendidos-ante-intento-de-ataque-a-reten-militar> and Teleamazonas, Militares detuvieron a presuntos terroristas en Guayaquil, 2 February 2024: <https://www.teleamazonas.com/militares-detuvieron-terroristas-guayaquil/>

²³ Constitution of the Republic of Ecuador, article 77.

²⁴ See: Alliance for Human Rights in Ecuador (*Alianza DDHH Ecuador*), International Federation for Human Rights (FIDH) and others: Amicus Curiae before the Constitutional Court of Ecuador, *Caso 1-24-EE* in relation to the implementation of security measures in the context of Decrees 110 and 111 of January 2024.

²⁵ Fundación Regional de Asesoría en Derechos Humanos (INREDH), Informe sobre los hechos de violencia policial y militar durante la declaratoria del Decreto 111, page 19.

²⁶ See Presidency of the Republic of Ecuador, Informe a la Nación por parte del presidente de la República, Daniel Noboa Azin: <https://www.youtube.com/watch?v=uFCerhugs1E>

²⁷ See Presidency of the Republic of Ecuador, Informe a la Nación por parte del presidente de la República, Daniel Noboa Azin: <https://www.youtube.com/watch?v=uFCerhugs1E>

as the overarching security plan guiding the response to the state of emergency and internal armed conflict since January 2024. At the time of writing, the official accounts of Ecuador’s Armed Forces on social media platforms such as X.com (formerly Twitter.com) continue to publish almost daily updates on arrests carried out as part of their activities to combat organized crime, many times displaying the faces of those arrested during on-the-spot detentions.²⁸ Several videos and images posted by the armed forces raise serious concerns as to the rights to due process, presumption of innocence, and privacy .

Representatives from the Public Prosecutor’s office in Quito informed Amnesty International in June 2024 that it had opened 18,000 criminal investigations between January and June 2024, but these did not necessarily correspond to the arrests reported by the President.²⁹ The Public Defender’s office has also reported limited access to monitoring and informed Amnesty International that it had to deploy extra public servants to the provinces with increased military presence to try and keep pace with the several on-the-spot arrests taking place at military checkpoints or in the street. A media report in February 2024 quoted data that suggested that of the 10,000 arrests that had taken place between January and February 2024, only 5% of these had been processed for any sort of crime, and the majority for the crime of “terrorism.”³⁰ Amnesty International has further received information about the possible enforced disappearance of two young men, allegedly committed by the Armed Forces in the province of Los Rios, on 26 August 2024, in the context of a military operation.³¹

2.6 RECOMMENDATIONS

To the President and Executive Branch:

- Entirely review the heavily militarized approach for the control of illicit drugs and organized crime, ensuring public health and human rights are at the centre by expanding health and other social services to address the underlying socio-economic factors that lead people to engage in the illicit drug trade, including illness, denial of education, unemployment, lack of housing, poverty and discrimination.
- Refrain from proposing or extending states of emergency unless it can effectively be demonstrated that the situation reaches the very high threshold of a public emergency threatening the life of the nation, as is required under international human rights law.
- Refrain from using military personnel, tactics and equipment to carry out ordinary policing functions, and ensure that civilian forces are adequately trained and equipped with various types of weapons and ammunition to allow for a differentiated use of force and firearms in accordance with the principles of necessity and proportionality.
- Stop using an enemy approach and terminology provided by the “war on drugs” or “war on terror” narrative that shapes how security forces conduct their operations, often in violation of international human rights law and standards.
- Refrain from deploying armed forces in public security tasks unless they can guarantee that such deployment will be done only in those exceptionally serious circumstances where it is impossible for authorities to rely solely on civilian agencies, establishing temporal and geographical restrictions, following the establishment of civilian accountability mechanisms.

²⁸ See a series of posts including photos and videos posted on the social media account of Ecuador’s armed forces, on X.com (Formerly Twitter.com): <https://x.com/FFAAECUADOR>

²⁹ Interview with representatives of the Directorship for Human Rights and the Directorship of Criminal Policy of the Public Prosecutor’s Office on 5 June 2024, Quito, Ecuador.

³⁰ La Hora, De los 10.000 detenidos por el estado de excepción solo 494 están procesados, 27 February 2024: <https://www.lahora.com.ec/pais/de-los-10-000-detenidos-por-el-estado-de-excepcion-solo-494-estan-procesados/>

³¹ Alianza por Derechos Humanos Ecuador, “Pronunciamento Exigimos a las instituciones estatales actuar de acuerdo con los estándares internacionales relativos a la desaparición forzada en el caso de los dos jóvenes aprehendidos el 26 de agosto en la Provincia de los Ríos”, 7 September 2024. On file with Amnesty International.

- Publicly condemn impunity for human rights violations committed by police and military during the state of emergency and declaration of internal armed conflict, to ensure guarantees of non-repetition, in addition to publicly emphasizing the government's commitment to human rights.
- Suspend any officer of the military or police – regardless of rank – suspected of grave human rights violations, pending an impartial and independent investigation, and ensure that no public official found directly or indirectly responsible these is employed in other public security, prosecutorial or judicial institutions.
- Provide effective protection and offer psychological support to all victims and families of victims of abuses by security forces and guarantee the right to access to justice and adequate reparations, including compensation and guarantees of non-repetition.

To the Public Prosecutor's Office:

- Ensure prompt, impartial, independent, and effective investigations into all grave human rights violations, including allegations of crimes under international law such as possible extrajudicial executions, and other grave human rights violations allegedly committed by members of the security forces in ordinary courts and with respect to all fair trial guarantees.

3. PRISON SYSTEM: RIGHTS OF PEOPLE DEPRIVED OF THEIR LIBERTY AND THE PROHIBITION OF TORTURE AND OTHER ILL-TREATMENT (ARTICLES 6, 7, 10)

3.1 INSTITUTIONAL CHARACTERISTICS OF ECUADOR'S PRISONS

Ecuador's penitentiary system falls under the National Service for Integral Attention of People Deprived of Liberty (SNAI) established in November 2018 as the technical body that oversees the coordination of the country's penitentiary system.³² Since its inception, the SNAI has passed through the hands of at least eight different directors in just over five years, with some barely remaining a month in office, as well as facing several institutional crises. According to a report by the Inter-American Commission on Human Rights (IACHR) following a mission to the country in late 2021, the SNAI faces severe institutional challenges which have "facilitated corruption, violence between criminal groups in prisons, and the consequent loss of control of the penitentiary centres."³³ Many directors of the SNAI have been retired members of the military,³⁴ an indication of the entrenched militarization of public security, despite the fact that Ecuador's criminal code was reformed to outline the mandate of the SNAI, and the regulations relating to the country's prison system call for the head of the SNAI to have a civilian background with an understanding of human rights and penitentiary systems.³⁵

³² See Executive Decree 560 of 14 November 2018 of former president Lenin Moreno.

³³ Inter-American Commission on Human Rights, *Personas privadas de libertad en Ecuador*: Aprobado por la Comisión Interamericana de Derechos Humanos el 21 de febrero de 2022 / Comisión Interamericana de Derechos Humanos, par. 215; (OAS. Documentos oficiales; OEA/Ser.L/V/II) ISBN 978-0-8270-7459-0).

³⁴ See for example: *El Mercurio*, Quinto director del SNAI se nombra por crisis carcelaria, 11 October 2022: <https://elmercurio.com.ec/2022/10/11/quinto-director-snai-carcel-ecuador/> and Ecuavisa, Tres crisis golpean al SNAI en seis meses del gobierno de Daniel Noboa, 3 August 2023: <https://www.ecuavisa.com/la-noticia-a-fondo/snai-crisis-tras-seis-meses-del-gobierno-de-daniel-noboa-HB7377108> ; *Todos los directores del SNAI salieron en medio de crisis y masacres carcelarias (ecuavisa.com)*

³⁵ See Reform to Ecuador's Criminal Code (Código Orgánico Integral Penal), article 104: " Artículo 104.- Sustitúyase el artículo 674 del Código Orgánico Integral Penal, por el siguiente: "Art. 674.- Organismo técnico del Sistema Nacional de Rehabilitación Social y de Atención Integral a Adolescentes Infractores.- El Sistema Nacional de Rehabilitación Social garantizará el cumplimiento de sus fines mediante un Organismo Técnico, creado como ministerio, con personalidad jurídica, dotado de autonomía técnica, administrativa, operativa y financiera, que tendrá, entre otras, las siguientes atribuciones y competencias: ". For its part, the Regulation that outlines the roles within the SNAI (Reglamento del Sistema Nacional de Rehabilitación Social, Seguridad y Protección) calls on the SNAI to have civilian control.

According to information received, the poor institutional oversight in prisons appears to have gone unabated. Following the report of the IACHR, in February 2022, former president Lasso announced a public policy for the social rehabilitation of prisoners with the technical support of the Office of the UN High Commissioner for Human Rights.³⁶ However, this policy is still far from being comprehensive and the information available suggests that authorities have not yet provided adequate resources to implement it.

While Ecuador's penitentiary system is in principle under civilian control, faced with a series of riots and massacres in prisons due to control by rival gangs, the executive branch has increasingly relied on states of emergency that have deployed the armed forces in prisons on several occasions.³⁷ These temporary deployments of the armed forces in prisons appear to have become semi-permanent, and since the start of 2024 and the declaration of an internal armed conflict with decrees 110 and 111 of January 2024, president Daniel Noboa brought all prisons across the country under military control. In addition, the Executive has relied on a discourse that stigmatizes people deprived of their liberty as enemies, rather than rights holders with a series of individual guarantees that the State is charged with upholding.

Even though Decree 111 of 9 January recognized the crisis in the prison system, the president specifically overlooked recommendations of the UN Sub-Committee for the Prevention of Torture (SPT) calling for the maintenance of civilian control over prisons.³⁷ While the president quoted the Sub Committee's report in the justification of the state of emergency, the authorities have failed to make the Sub Committee's report public.

For its part, the UN Committee Against Torture also recently called on Ecuador to de-militarize its prison system after the country review in July 2024, having "requested the State party to redouble its efforts to address the prison crisis and its systemic causes with a human rights approach, prioritizing policies of rehabilitation, re-education and social reintegration, the demilitarization of control of prisons, and the prevention of violence."³⁸

Despite multiple international human rights mechanisms expressing specific concerns over the militarized nature of Ecuador's prisons, the Executive appears to have overlooked the concrete measures that must be taken to improve the prison system, and fully guarantee the rights of people deprived of their liberty.

3.2 CHRONIC OVERCROWDING IN ECUADOR'S PRISONS

Institutional failures are compounded by overcrowding in prisons, largely caused by punitive drug policies. Ecuador's prisons are holding 30,804 people deprived of their liberty (29,101 men and 1,703 women), according to latest official figures as of 2023, of which 36% are persons yet to be sentenced.³⁹ The SNAI reported in 2023 an average overcrowding rate of 13.45% over the total capacity for the prison system.⁴⁰ People charged with drug-related offences represent 30% of a prison population that tripled since 2000 amidst reforms providing for harsher penalties, a ban on alternatives to incarceration and almost automatic pretrial detention for drug-related offences.⁴¹

³⁶ Office of the United Nations High Commissioner for Human Rights, Ecuador: Prison violence, 10 May 2022: <https://www.ohchr.org/en/press-briefing-notes/2022/05/ecuador-prison-violence>

³⁷ See, for example: On 24 July 2023, President Guillermo Lasso emitted Executive Decree, 823 which declared a state of emergency in all of Ecuador's prisons, allowing for armed forces and police to enter prisons. This is not the first time armed forces and police have entered prisons in response to massacres.

³⁸ UN Committee Against Torture (CAT), Concluding Observations, CAT/C/ECU/CO/8 (original in Spanish - text quoted above own translation): Paragraph 16 a): "Redoblar sus esfuerzos para promover e implementar un plan integral que aborde la actual crisis penitenciaria y sus causas sistémicas con un enfoque de derechos humanos, priorizando políticas de rehabilitación, reeducación y reinserción social, la desmilitarización del control de los centros penitenciarios y la prevención de la violencia".

³⁹ SNAI, Estadísticas: <https://www.atencionintegral.gob.ec/estadisticas/> – See table entitled "Indicadores ODS 16.3.2"

⁴⁰ See SNAI, Estadísticas. <https://www.atencionintegral.gob.ec/estadisticas/> See table entitled: "Indicadores PNUD 2024-2025".

⁴¹ Inter American Commission on Human Rights, "Personas Privadas de Libertad en Ecuador", 2022, p. 49: https://www.oas.org/es/cidh/informes/pdfs/Informe-PPL-Ecuador_VF.pdf

The prison population in Ecuador rose by more than 400% in 20 years, fueled by increased sentences, abuse in pretrial detention and denial of prison progression for minor and non-violent drug-related offences.⁴² In the national referendum of 21 April 2024, 67.34% of voters responded “yes” to allowing an increase in the criminal sentences for the following crimes: i) terrorism and its financing, (ii) illicit production of and trafficking in scheduled controlled substances, (iii) organized crime, (iv) drug trafficking, (v) illicit drug trafficking, (vi) murder, (vii) contract killings, (viii) trafficking in persons, (ix) kidnapping for ransom, arms trafficking, and (x) money laundering.⁴³ Several of these offences had their sentences increased after this referendum. For example, the crime of illicit production of drugs was increased from a former maximum sentence of ten years to a new maximum of 16 years,⁴⁴ and the maximum sentence for drug trafficking was elevated to 26 years in prison.⁴⁵

Authorities in Ecuador have failed to adopt new models of drug control that put the protection of people’s health and other human rights at the centre and that could alleviate the serious overcrowding in prisons. This should include, as recommended by the Office of the UN High Commissioner for Human Rights (OHCHR), the decriminalization of the use, possession, cultivation and acquisition of drugs for personal use as well as considering alternatives to detention for other minor and non-violent drug-related offences.⁴⁶ Safeguards on the right to liberty and security of person, including fair trial guarantees, must apply equally for drug-related cases.⁴⁷

3.3 DEATHS IN CUSTODY

According to the Ombudsperson’s Office, 1,137 people have died in prisons due to violent causes since 2020.⁴⁸ More than half of these deaths occurred in 2021 alone. Prison massacres have been widespread during recent years, at times involving several dozens of victims at a time.⁴⁹ For 2024, the Ombudsperson’s Office informed Amnesty International that it has registered 24 deaths in custody from 8 January 2024 to the time of writing (September 2024), with three of these deaths attributed to natural causes.⁵⁰

Many of these deaths in custody have been attributed by human rights groups, observers and experts to the rivalry between criminal groups and gangs inside prisons. Nevertheless, as previously noted by the UN Human Rights Committee, the lack of state control does not remove the official responsibility for these killings as states have a duty to protect persons from violence by private individuals, particularly those under their custody, as well as a duty to safeguard the health and wellbeing of people deprived of liberty.⁵¹

⁴² Inter American Commission on Human Rights, “IACHR Issues Report on the situation of persons who are deprived of liberty in Ecuador”, March 17, 2022, para 107-111.

⁴³ See original names of criminal offenses put to popular vote in their Spanish version, in the summary of the National Electoral Council on results of the referendum: National Electoral Council (Consejo Nacional Electoral), Resolution of the full chamber of the Council: Resolución PLE-CLE-1-8-5-2024, 8 May 2024: <https://www.cne.gob.ec/wp-content/uploads/2024/05/RESOLUCION-PLE-CNE-1-8-5-2024-signed.pdf>

⁴⁴ National Assembly of Ecuador, Proyecto de Ley Orgánica para la Aplicación de la Consulta Popular y Referendum del 21 de abril de 2024, Registro Oficial, Suplemento no. 599: https://strapi.lexis.com.ec/uploads/SRO_599_20240712_acd07747fb.pdf See modifications to Article 219 of the Criminal Code, page 10.

⁴⁵ National Assembly of Ecuador, Proyecto de Ley Orgánica para la Aplicación de la Consulta Popular y Referendum del 21 de abril de 2024, Registro Oficial, Suplemento no. 599: https://strapi.lexis.com.ec/uploads/SRO_599_20240712_acd07747fb.pdf See modifications to Article 220 of the Criminal Code, page 10.

⁴⁶ OHCHR, *Human rights challenges in addressing and countering all aspects of the world drug problem*, 2023, para. 29, 68(a).

⁴⁷ Human Rights Committee, General Comment 35: Article 9 (Liberty and security of person), 16 December 2014, UN Doc. CCPR/C/GC/35, para. 40 Universal Declaration of Human Rights, G.A. Res. 217A (III) (1948), arts. 10, 11; International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI) (1966), art. 14; [European] Convention for the Protection of Human Rights and Fundamental Freedoms, ETS No. 5 (1950), art. 6; American Convention on Human Rights, O.A.S. Treaty Series No. 36 (1969), art. 8; African Charter on Human and Peoples’ Rights, OAU Doc. CAB/LEG/67/3 rev. 5 (1981), art. 7; Arab Charter on Human Rights (2004), art. 13; see generally Human Rights Committee, General Comment No. 32: Right to Equality before Courts and Tribunals and to a Fair Trial, UN Doc. CCPR/C/GC/32 (2007).

⁴⁸ Ombudsperson’s Office (Defensoría del Pueblo de Ecuador), response to Freedom of Information Requests submitted by Amnesty International, No. SAIP-1760013130001-2024-08-22- ASTRID.VALENCIA-13-27-39 del 22 de agosto del 2024, August 2024.

⁴⁹ For a summary of the most emblematic prison massacres in recent years, see Amnesty International, Ecuador: Submission to the UN Committee against Torture: 80th session, 8- 26 July 2024: <https://www.amnesty.org/en/documents/amr28/8132/2024/en/>

⁵⁰ Ombudsperson’s Office (Defensoría del Pueblo de Ecuador), response to Freedom of Information Requests submitted by Amnesty International, No. SAIP-1760013130001-2024-08-22- ASTRID.VALENCIA-13-27-39 del 22 de agosto del 2024, August 2024.

⁵¹ Daley v Jamaica, HRC, UN Doc. CCPR/C/63/D/750/1997 (1998) §7.6

3.4 TORTURE AND OTHER FORMS OF ILL-TREATMENT IN PRISONS

The deployment of armed forces since January 2024 has been accompanied by a series of complaints of torture and other ill-treatment in Ecuador’s prisons. According to the Ombudsperson’s office, in some cases the torture inflicted appears to have resulted in the death of some detainees.⁵²

In response to a request of information, the Ministry of Women and Human Rights informed Amnesty International that it had received 35 alerts between 9 January and 27 February 2024 in relation to allegations of human rights violations committed by the National Police and Armed Forces in the context of the state of emergency.⁵³ These alerts included allegations of torture and other ill-treatment inside prisons. In an interview with representatives of the Public Prosecutor’s office in June 2024, prosecutors confirmed to Amnesty International they had opened 31 investigations for torture and other ill-treatment between 8 January 2024 to June 2024.⁵⁴

The Alliance for Human Rights of Ecuador, alongside the Committee of Families for Justice in Prisons and the Permanent Committee on the Defence of Human Rights (“CDH Guayaquil”), published a report in late April 2024 detailing over 100 complaints of torture and other ill-treatment in Ecuador’s prisons since January 2024 (mainly in prisons near the city of Guayaquil which these NGOs monitor most closely).⁵⁵ The report documents beatings with batons, electrical cables, forced postures, simulating drowning in water containers, ill treatment with electric currents and insults used by the armed forces. In addition, the report outlines complaints by people in prisons of rape through forcing weapons or instruments up the anus of persons deprived of liberty. Amnesty International has also received several reports of cases of trans people facing acute humiliation, neglect and ill-treatment in detention.

These reports from human rights organizations are in line with the information received by Amnesty International, including video footage, of possible acts of torture and other ill-treatment by security forces in some detention centres of the National System for Social Rehabilitation, such as the del Litoral prison. Journalistic investigations have shed further light on the torture techniques possibly being used by the military in prison, including waterboarding, whippings and beatings.⁵⁶

The following table is based on information provided by the Ombudsperson’s Office in relation to the number of alerts in relation to penitentiary conditions sent by the Ombudsperson to the Public Prosecutor’s office, by year, from 2019 to the present.⁵⁷

Year	Alerts regarding prison conditions sent by the Ombudsperson to the Public Prosecutor’s office in relation to treatment of prisoners
2019	3
2020	4
2021	10
2022	3
2023	6
2024 (8 January to 31 August 2024)	27

⁵² Ombudsperson’s Office, Press Release: <https://www.dpe.gob.ec/la-defensoria-del-pueblo-ante-las-reiteradas-alertas-y-denuncias-de-tortura-y-malos-tratos-en-los-centros-de-privacion-de-libertad-exhorta-al-estado-a-ejecutar-acciones-urgentes-para-la-garantia-y-pro/>, 29 May 2024

⁵³ Ministerio de la Mujer y Derechos Humanos, Oficio Nro. MMDH-MMDH-2024-0271-0, 8 March 2024.

⁵⁴ Interview with representatives of the Directorship for Human Rights and the Directorship of Criminal Policy of the Public Prosecutor’s Office on 5 June 2024, Quito, Ecuador.

⁵⁵ CDH Guayaquil, Reporte Situación De Crisis Carcelaria Ecuador- Contexto Conflicto Armado Interno, 25 April 2024.

⁵⁶ *El País*, From barbarism to abuse: The ongoing problem of Ecuador’s prisons, 20 May 2024: <https://english.elpais.com/international/2024-05-20/from-barbarism-to-abuse-the-ongoing-problem-of-ecuadors-prisons.html>

⁵⁷ Ombudsperson’s Office (Defensoría del Pueblo de Ecuador), response to Freedom of Information Requests submitted by Amnesty International, No. SAIP-1760013130001-2024-08-22- ASTRID.VALENCIA-13-27-39 del 22 de agosto del 2024, August 2024.

3.5 CONDITIONS THAT COULD GIVE RISE TO ENFORCED DISAPPEARANCES IN THE CONTEXT OF PRISONS

Amnesty International has received several pieces of information from civil society organizations, international observers and investigative journalists that point to chronic failures in ensuring clear registers of the whereabouts of people deprived of their liberty. The information available suggests that both prison authorities and military in charge of prisons lack proper systems for keeping track of detainees, which could suggest a severe omission on the responsibility to protect those persons under their custody.

Civil society organizations mentioned three instances during the month of February 2024 alone where family members denounced cases of possible enforced disappearances of persons under custody of the military in prisons.⁵⁸

3.6 DEPRIVATION OF FOOD AND MEDICAL SERVICES

Access to food and medical services in prisons has been minimal and negligent, with grave reports of cases of malnutrition and the spreading of infectious diseases inside of prisons, including in the provinces of Guayas and Manabi. The situation reached a critical point during late April, when prison authorities informed the families of detainees in at least five provinces in Ecuador that the provision of food and medication would be suspended. Families and charities were forced to bring food and medicines to the prisons.⁵⁹

Prison authorities suspended the provision of food and medication in prisons because of an alleged lack of payment by the state to the prisons' food services provider as the result of a diminished budget. In May 2024, a judge ordered authorities to transfer the funds to ensure food services recommenced.⁶⁰ Even though meals were provided again, family members who visited their relatives suggested in July that people in prison are only receiving one meal per day.⁶¹

According to information provided by lawyers and human rights groups that provide services to families of those detained, health services inside Ecuador's prisons have been practically non-functional since at least 2022. Lawyers told Amnesty International in mid-2023 that the Ministry of Health no longer provided doctors stationed inside Ecuador's largest prison, "Del Litoral", (Guayas Prison 1), in the province of Guayas, which houses over 5,000 people. People with health urgencies in that prison are transported to external health posts with the help of emergency services. Although in the weeks prior to the time of writing this document, some indications suggested that health services had been recommenced, Amnesty International has to date received no information that suggests that systemic measures have been implemented to guarantee comprehensive medical attention to people deprived of their liberty.

3.7 RESTRICTIONS ON VISITS AND PHONE CALLS FROM FAMILIES, LAWYERS, AND HUMAN RIGHTS OBSERVERS

Human rights groups and lawyers have confirmed to Amnesty International that access to persons deprived of liberty has been even further limited since the declaration of the state of emergency in January 2024. Family visits and phone calls with people in detention were suspended for approximately five months after the military took control of prisons in early 2024. Available information suggests that

⁵⁸ INREDH (Fundación Regional de Asesoría en Derechos Humanos), Informe sobre los hechos de violencia policial y militar durante la declaratoria del Decreto 111. Page 14.

⁵⁹ Amnesty International, Detainees at Imminent Risk, AMR 28/7987/2024, 25 April 2024, <https://www.amnesty.org/en/documents/amr28/7987/2024/en/>

⁶⁰ Amnesty International: Ecuador: Further information: Detainees still at risk - Amnesty International, May 6, 2024 Index Number: AMR 28/8023/2024

⁶¹ El País, "Ecuador reinstaura las visitas en prisión: 'Encontré a mi hijo en huesos, cuenta que todas las mañanas lo golpean'", 10 August 2024.: <https://elpais.com/america/2024-08-11/ecuador-reinstaura-las-visitas-en-prision-encontre-a-mi-hijo-en-huesos-cuenta-que-todas-las-mananas-lo-golpean.html>

family members had little to no information regarding their relatives during this time. Visits were re-initiated in July 2024 after considerable concerns were raised by family members who had little or no information on the state of their loved ones. According to information received from investigative journalists and civil society organizations representing families, when family members were finally able to visit their relatives, the visits were restricted to ten minutes and families commented on the deteriorated health of the prisoners as well as noting that many of them showed signs of injuries, beatings, bruises and other signs that could be indicative of torture or other ill-treatment.⁶²

The National Mechanism for the Prevention of Torture (MPT) told Amnesty International in a meeting in June 2024 that its members had continued to carry out visits to penitentiary centers during the declaration of state of emergency and internal armed conflict, however with significant obstacles to their work and to access places of detention.⁶³

Forensic services assigned to prisons are slow and often unable to carry out their work. In response to the multiple deaths in custody and massacres over recent years, according to local human rights groups, investigative authorities routinely fail to properly carry out their duties, with forensic services delaying in properly identifying bodies and remains of those deceased and families receiving distressing and confusing information on the fate of their loved ones.

3.8 RECOMMENDATIONS

To the President and the Executive Branch, including the SNAI:

- Ensure that pre-trial detention is not used as a mandatory measure for a particular crime, including drug-related offences, nor ordered for a period based on the potential sentence. Respect all fair trial guarantees in drug-related cases and ensure that people accused of drug-related offences are promptly charged with an internationally recognized offence.
- Refrain from deploying armed forces to control the country's penitentiary system and ensure that prisons fall under solely civilian agencies, including civilian accountability mechanisms.
- Take measures to guarantee the access of family members, lawyers and human rights observers to prisons, ensuring that visits can be carried out without obstacles, as well as ensuring reasonable duration of visits without fear of intimidation or interference.
- Redouble efforts to strengthen medical and forensic services in prison, ensuring sufficient funding and human resources to this end.
- Immediately guarantee the right to food and healthcare in prisons, ensuring full, frequent and nutritious meals and access to the same standards of health care that are available in the community, in line with United Nations Standard Minimum Rules for the Treatment of Prisoners.

To the Public Prosecutor's Office:

- Ensure prompt, impartial, independent, and effective investigations into all grave human rights violations, including allegations of crimes under international law such as torture and other ill-treatment or enforced disappearances, and other grave human rights violations allegedly committed by members of the security forces within the context their control of penitentiary centers.

⁶² Alianza por los Derechos Humanos Ecuador; Pronunciamento de organizaciones nacionales e internacionales: Comité contra la Tortura (CAT) recomienda a Ecuador atender crisis carcelaria, demilitarizar prisiones y eliminar el Delito de Aborto, 31 de julio de 2024: <https://alianzaddhh.org/pronunciamento-de-organizaciones-nacionales-e-internacionales-comite-contra-la-tortura-cat-recomienda-a-ecuador-atender-crisis-carcelaria-demilitarizar-prisiones-y-eliminar-el-delito-de-aborto/>

⁶³ Interview with members of the National Mechanism for the Prevention of Torture (part of the Ombudsperson's Office), June 2024, Quito, Ecuador.

4. HUMAN RIGHTS DEFENDERS (ARTICLES 6, 14)

4.1 SECURITY CONDITIONS FOR HUMAN RIGHTS DEFENDERS AND LACK OF A COMPREHENSIVE PROTECTION POLICY

Human rights defenders in Ecuador face a hostile environment and security risks. Land, territory, and environmental defenders are at particular risk, especially those who oppose oil, mining and gas activities, in their territories. Security incidents include threats, intimidation, online violence and physical attacks, which can be lethal.⁶⁴ The presence of organized criminal groups and the consequent spike in violence in recent years has generated further challenges for defending human rights in a safe environment. One landmark example is the killing on 26 February 2023 of environmental defender Eduardo Mendúa, leader of the A'i Cofán Dureno community in northeastern Ecuador, who opposed the extractive activities of a company in his territory.⁶⁵

The implementation of militarized security policies, including the deployment of the armed forces in the streets and prisons, has not translated into a safer environment for the defense of human rights. During a visit to Quito and Guayaquil in June 2024, Amnesty International met with more than 20 human rights organizations and at least 15 environmental defenders from the Amazon, Sierra, and Coastal regions. All reported to have directly experienced or to know a human rights defender who had experienced some form of security incident in the last year.

For example, human rights defenders from CDH Guayaquil reported an increase in acts of intimidation and harassment, both physical and online, since the start of the declaration of internal armed conflict.⁶⁶ Defenders were also subject to cyberattacks, which prevented them from receiving reports and information of potential cases of human rights violations. CDH Guayaquil views these incidents as reprisals for their human rights work, which has brought attention to human rights violations potentially committed by security forces in the context of the current administration's security policies.

Despite the security risks faced by human rights defenders, Ecuadorian authorities have not yet implemented a comprehensive policy for their protection. Since 2019, various state institutions, including the Public Prosecutor's Office, the Ombudsman's Office, the Ministry of the Interior, and the Ministry of Women and Human Rights participate in an "inter-institutional roundtable" for the protection of human rights defenders aimed at coordinating the state response. Further, in 2023, the Public Prosecutor's Office developed a policy to guarantee access to justice for human rights defenders.⁶⁷ Lastly, the Ministry of Women and Human Rights informed Amnesty International in a letter in March 2024, that it was leading a study on human rights defenders and journalists to inform the creation of a protection policy.⁶⁸

While the abovementioned efforts are important, a comprehensive protection policy and mechanism to guarantee the safety of human rights defenders at risk remains absent in Ecuador. It is worth noting that, in its fourth cycle of revision before the Universal Periodic Review of the UN Human Rights Council in 2023, Ecuador accepted recommendations in relation to the adoption of a policy and mechanism for the protection of human rights defenders.⁶⁹

⁶⁴ Amnesty International, "No future without courage: Human rights defenders in the Americas speaking up on the climate crisis", 23 November 2023, Index Number: AMR 01/7411/2023, <https://www.amnesty.org/en/documents/amr01/7411/2023/en/>

⁶⁵ Ana Cristina Alvarado, "Ecuador: el asesinato del líder indígena Eduardo Mendúa en medio de conflicto petrolero en la comunidad Cofán Dureno, 'MongaBay'", 3 March 2023, <https://es.mongabay.com/2023/03/asesinato-de-eduardo-mendua-en-ecuador/>

⁶⁶ CDH Guayaquil, "Ataque a Defensorxs de Derechos Humanos", 20 February 2024, <https://www.cdh.org.ec/ultimos-pronunciamientos/623-ataque-a-defensorxs-de-derechos-humanos.html>

⁶⁷ Public Prosecutor's Office, Institutional Policies and Guidelines, "Política Criminal para Garantizar el Acceso a la Justicia y la Protección dentro de la Investigación Penal a las Defensorxs de Derechos Humanos y de la Naturaleza", 2023, https://www.fiscalia.gob.ec/politicas-y-directrices-institucionales/#flipbook-df_56061/1/

⁶⁸ Ministry of Women and Human Rights, Oficio Nro. MMDH-MMDH-2024-0271-0, 8 March 2024.

⁶⁹ UN Doc A/HRC/52/5, Recommendations 100.29 (Romania, Costa Rica, Greece/Peru), 100.35 (Slovenia); and 100.42 (Honduras)

4.2 STIGMATIZATION AND CRIMINALIZATION OF HUMAN RIGHTS DEFENDERS

Human rights defenders are routinely stigmatized by authorities, including those at the highest level, contributing to an environment conducive to threats and attacks against them.

In 2023, the former minister of Energy and Mines of Ecuador, Fernando Santos, accused in the Ecuadorian National Assembly the lawyer of the Union of People Affected by Texaco (UDAPT), Pablo Fajardo Mendoza, of being an "international criminal" for his defense of human rights, mainly of Indigenous peoples and communities, against the impacts of oil company operations in the Ecuadorian Amazon.⁷⁰ In 2024, president Noboa repeatedly stigmatized human rights defenders working for the rights of people in detention, calling them "antipatriotic."⁷¹ Human rights defenders reported an increase in acts of intimidation and digital attacks following the president's statement. Also in 2024, the former minister of Energy and Mines, Andrea Arrobo, stigmatized a group of child climate activists from the Amazon region insinuating that they were 'manipulated'.⁷² Likewise, after the appearance before the national assembly, young climate activist Leonela Moncayo and her family denounced the explosion of a homemade explosive device in the courtyard of their home.⁷³ In response, a number of UN Special Rapporteurs issued a public communication to the Ecuadorian government regarding this act of intimidation against Leonela Moncayo and her family.⁷⁴

Some human rights defenders, particularly land, territory, and environmental defenders, have also reported that they have been subjected to unfounded criminal proceedings, which they view as a tactic generally pursued by private actors to prevent them from doing their work. One particularly concerning case is that of human rights defenders from Las Naves, in the province of Bolivar, working for the defense of the right to water and opposing mining activities. Numerous human rights defenders from that province have faced criminal proceedings initiated by private actors.⁷⁵ Six human rights defenders were sentenced to three years in prison in March 2024.⁷⁶ That same month, in the province of Cotopaxi, more than 70 individuals, including Indigenous leaders and human rights defenders, faced criminal charges following protests against mining activities and against a consultation process they view as illegitimate.⁷⁷

4.3 RECOMMENDATIONS

To the Executive Branch:

- Urgently design and implement, in consultation with human rights defenders and civil society organizations, a national protection mechanism for human rights defenders at risk which incorporates preventative, collective and gender-sensitive approaches.

⁷⁰ Amnesty International, "Ecuador: Ecuadorian human rights defender Pablo Fajardo stigmatized", April 28, 2023 Index Number: AMR 28/6732/2023, <https://www.amnesty.org/en/documents/amr28/6732/2023/en/>

⁷¹ See for example: Ecuavisa, "Noboa en respaldo a los militares: 'Que ninguna antipatria nos venga a decir que nosotros estamos violando los derechos de nadie'", 15 February 2024: <https://www.ecuavisa.com/noticias/politica/noboa-declaraciones-derechos-humanos-manabi-DN6816014>.

⁷² Amnesty International, "Ecuador: Further information: Protection without conditions needed for child climate activists", 6 May 2024, Index Number: AMR 28/8024/2024, <https://www.amnesty.org/en/documents/amr28/8024/2024/en/>

⁷³ Amnesty International, "Ecuador: Child Climate Justice Activist intimidated in her home", 4 March 2024, AMR 28/7775/2024 <https://www.amnesty.org/en/documents/amr28/7775/2024/en/>

⁷⁴ Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the human right to a clean, healthy and safe environment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and right to freedom of opinion and expression; AL ECU 3/2024, 16 May 2024: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=29052>

⁷⁵ UN Special Rapporteur on Human Rights Defenders, "Ecuador: acts of violence and criminalization against human rights defenders during environmental consultations for mining projects (Joint communication)", Official Letter and Statements, 31 July 2024, <https://srdefenders.org/ecuador-actos-de-violencia-y-criminalizacion-en-contra-de-defensores-de-derechos-humanos-consultas-ambientales-proyectos-mineros-comunicacion-conjunta/>

⁷⁶ CEDHU, "Campesinos defensores de la naturaleza fueron condenados a prisión por defender su territorio" 22 March 2023, <https://cedhu.org/2024/03/22/campesinos-defensores-de-la-naturaleza-fueron-condenados-a-prision-por-defender-su-territorio/#:~:text=Seis%20defensores%20de>

⁷⁷ OHCHR, "UN experts call for meaningful consultations on Ecuador's mining projects", 13 May 2024, <https://www.ohchr.org/es/press-releases/2024/05/un-experts-call-meaningful-consultations-ecuadors-mining-projects>

- Publicly acknowledge the importance and legitimacy of human rights defenders. Refrain from issuing public statements that stigmatize human rights defenders and call on members of your cabinet to refrain from doing so.

To the Public Prosecutor's Office:

- Conduct prompt, thorough, independent and impartial investigations into attacks and threats against human rights defenders. Consider, when presented with an accusation, whether the accused is a human rights defender, to identify if the proceeding is being used as a mechanism to hinder the work of the human rights defender.

5. TRANSPARENCY (ARTICLE 19)

The adoption of a militarized public security policy has been accompanied by a lack of transparency and access to information that undermines civilian oversight of any measures carried out. In January 2024, president Noboa announced that “Plan Fenix” would be the overarching policy in response to the state of emergency, however, to date this plan has not been made public. The armed forces and the police have failed to provide details as to the circumstances under which the thousands of arrests they have carried out have taken place, providing obstacles for those who defend human rights and seek the truth on the emerging human rights violations. Several official webpages pertaining to public institutions responsible for compiling information on Ecuador’s security measures are non-functional outside of Ecuador, and those within Ecuador are often out of date and lacking full information. In the case of the SNAI, updated data on the prison population of 2024 has not been published.⁷⁸ The lack of information, including on the number of arrests, poses risks of other grave human rights violations being committed, such as enforced disappearances, extrajudicial executions, torture and other ill-treatment. Civil society organizations have faced mounting challenges to access information and to participate in public decision-making processes.

5.1 RECOMMENDATIONS

- Gather and make public information and statistical data about killings resulting from police and armed forces interventions, to be standardized at the national level and for all provinces, to provide timely, accurate, and periodic information about the number of people killed and injured in police operations disaggregated by gender, race, age and other relevant markers.
- Urgently make public Plan Fenix, the security plan used throughout the state of emergency, as well as ensuring a centralized webpage for all actions taken by the military and police during the combat on organized crime.
- Ensure civil society organizations, social movements and members of the population are fully informed and consulted on government decisions that affect them, in line with their rights to participation, access to information and freedom of expression.

6. SEXUAL AND REPRODUCTIVE RIGHTS (ARTICLES 7, 17 AND 23)

Ecuador prohibits consented abortion in most circumstances, criminalizing those who seek access to an abortion and those facilitating it, such as medical professionals. Articles 149 and 150 of the Organic

⁷⁸ SNAI Estadísticas: <https://www.atencionintegral.gob.ec/estadisticas/>

Criminal Code establishes that those facilitating an abortion are subject to up to three years in prison; whereas those seeking an abortion are subject to up to two years in prison.⁷⁹ The Code establishes exceptions when the health of the pregnant individual is at serious risk, and for women with a mental disability or who are victims of sexual assault.

In 2022, following a 2021 ruling from the Constitutional Court,⁸⁰ Ecuador approved the “Organic Law that Regulates the Voluntary Interruption of Pregnancies, in Cases of Sexual Assault”.⁸¹ The law expanded access to abortion for all victims of sexual assault and created a regulatory framework for individuals seeking an abortion and for medical professionals facilitating abortions.

Despite this important measure, access to abortion remains severely restricted even in the circumstances allowed by the law. The lack of information about legal protections, social stigma and denial of service for reasons of conscience, among other barriers, impede women, girls, and pregnant people to exercise their reproductive rights.

Moreover, the prohibition of abortion in most circumstances forces pregnant people to have unsafe abortions, putting their health and life at high risk. Prosecution almost invariably targets youth, rural and low-income women, and deters some health professionals from performing life-saving abortions.⁸² Criminalization reinforces social stigma against abortion and pushes health professionals to break confidentiality and report women seeking consented abortions or who face emergencies with their pregnancies.⁸³

By way of example, the case of an Ecuadorian girl was brought to the attention of this Committee through an individual complaint in 2019.⁸⁴ She suffered sexual violence from her father for years without effective protective measures from the authorities. She became pregnant at 14 years old, but the state denied access to abortion, forcing her to give birth and raise a child, being herself a girl. She could not finish school, and her social and economic rights were also violated. The potential violation of her rights to protection from inhuman and degrading treatment, privacy and others due to abortion bans are thus under the analysis of this Committee, whose decision is still pending.

In recent years, numerous UN Treaty Bodies and Special Procedures have expressed their concern for the criminalization of abortion in Ecuador.⁸⁵ Most recently, in July 2024, the Committee against Torture encouraged Ecuador “to decriminalize abortion, protect patients and professionals from criminalization and take measures to ensure access to abortion, and other sexual and reproductive services.”⁸⁶

6.1 RECOMMENDATIONS

To the Executive Branch:

- Adopt all available measures to eradicate barriers to access consented abortion, especially in the context of denial of service for reasons of conscience.

⁷⁹ Asamblea Nacional de la República del Ecuador, Código Orgánico Integral Penal, COIP de 2014, Artículos 149 and 150, Oficio No. SAN-2014-0138 Quito, 03 February 2014.

⁸⁰ Constitutional Court of Ecuador, Sentencia 34-19-IN/21, Quito, 28 April 2021.

⁸¹ Presidencia de la República de Ecuador, LEY REGULA INTERRUPCIÓN VOLUNTARIA DE EMBARAZO EN CASO DE VIOLACIÓN, Registro Oficial Suplemento 53, 29 April 2022.

⁸² Surkuna, “Estereotipos de género en el juzgamiento del delito de aborto consentido en el Ecuador,” April 2024: <https://surkuna.org/wp-content/uploads/2024/05/Final-Estereotipos-de-Genero-en-el-Juzgamiento-del-delito-de-aborto-consentido-en-el-Ecuador-2024-.pdf>

⁸³ *Ibid.*

⁸⁴ Case brought through the Individuals Complaint Procedure of the UN Human Rights Committee, Case CCPR-3628-2019.

⁸⁵ UNHCR, Report of the Special Rapporteur on violence against women, its causes, and consequences Visit to Ecuador, A/HRC/44/52/Add.2, 22 May 2022; CEDAW, Concluding Observations on the Eight and Ninth Periodic Review of Ecuador, CEDAW/C/ECU/CO/8-9, 2015; UNHCHR, Report of the Special Rapporteur on physical and mental health, A/HRC/44/48/Add.1, 2020, párr. 77; Committee against Torture, Concluding Observations on Eight Periodic Review of Ecuador, 28 July, 2024, parr. 41 y 42.

⁸⁶ Committee against Torture, Concluding Observations on Eight Periodic Review of Ecuador, 28 July, 2024, parr. 41 y 42.

- Adopt all available measures to protect the right to abortion by protecting patients, professionals and other abortion defenders from stigma, harassment, reprisals, intimidation and other attacks.

To the National Assembly:

- Take steps to recognize, respect and protect the right to abortion of girls, women and people who can get pregnant in all circumstances, including by repealing Articles 149 and 150 of the Organic Criminal Code.

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