

CIVIL SOCIETY REPORT

CIVIL AND POLITICAL RIGHTS

The case of **ECUADOR**

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1 INTRODUCTION

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

¹⁰ Ibid.

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

6 CONCLUSIONS

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

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

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

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

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

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

7 REQUEST

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



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

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

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

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

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

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

Non-governmental organisations LEAL and NOFEC

CODHAL members

