



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### List of issues prior to the submission of the seventh periodic report of Ecuador\*

#### A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please report on any significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the previous concluding observations.<sup>1</sup> Please indicate which procedures are in place for the implementation of the Committee's Views under the Optional Protocol and provide information on measures taken to ensure full compliance with the Committee's Views in the cases of *Terán Jijón v. Ecuador*,<sup>2</sup> *Cañón García v. Ecuador*,<sup>3</sup> *Isaías Dassum and Isaías Dassum v. Ecuador*<sup>4</sup> and *Fofana v. Ecuador*,<sup>5</sup> in which the Committee established the responsibility of the State party.

#### B. Specific information on the implementation of articles 1 to 27 of the Covenant, including with regard to the previous recommendations of the Committee

##### Constitutional and legal framework within which the Covenant is implemented (art. 2)

2. In the light of the Committee's previous concluding observations (para. 6),<sup>6</sup> please provide information on the establishment of a specific mechanism or procedure for implementing the Committee's Views and give examples of cases in which the domestic courts have invoked the provisions of the Covenant. Please provide information on the content of the training programmes run for justice officials and on activities carried out to raise public awareness of the Covenant rights and the fact that they are directly applicable under national law.

##### States of emergency (art. 4)

3. Please provide information on the implementation of article 4 of the Covenant, including the applicable legislation and whether this ensures the full implementation of article 4 and respect for the non-derogable provisions of the Covenant. In this regard, please provide

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\* Adopted by the Committee at its 132nd session (28 June–23 July 2021).

<sup>1</sup> CCPR/C/ECU/CO/6.

<sup>2</sup> CCPR/C/44/D/277/1988.

<sup>3</sup> CCPR/C/43/D/319/1988.

<sup>4</sup> CCPR/C/116/D/2244/2013.

<sup>5</sup> Communication No. 2290/2013.

<sup>6</sup> Unless otherwise indicated, paragraph numbers in parentheses refer to CCPR/C/ECU/CO/6.



information on the numerous states of emergency that have been declared in the past three years and notified to the Secretary-General of the United Nations and indicate whether they are in conformity with article 4. Please also provide further information on the articles of the Covenant from which the State party has derogated during the coronavirus disease (COVID-19) pandemic and on measures taken to ensure compliance with the requirements set forth in the Committee's statement on derogations from the Covenant in connection with the COVID-19 pandemic.<sup>7</sup>

**Combating impunity and past human rights violations (arts. 2, 6, 7 and 17)**

4. In the light of the Committee's previous concluding observations (para. 20) and the report on follow-up to the concluding observations,<sup>8</sup> please provide information on:

(a) The measures taken to expedite judicial investigations into the cases of human rights violations set out in the report of the Truth Commission and the number of cases currently at the preliminary stages of investigation;

(b) The criteria used to select the cases to be investigated;

(c) The progress made and the number of compensation agreements now signed with victims and their families on the basis of the 2013 Act for the Reparation of Victims and the Prosecution of Grave Human Rights Violations and Crimes against Humanity That Occurred in Ecuador between 4 October 1983 and 31 December 2008.

**Counter-terrorism measures (arts. 2, 14 and 26)**

5. Please provide statistical information on the application of article 366 of the Comprehensive Organic Criminal Code, disaggregated by sex, age and ethnicity of persons tried and/or convicted, specifying the acts investigated, the charges brought and the sentences handed down, over the past five years. Please also provide information on measures taken to ensure, in law and in practice, that persons charged with terrorism offences are afforded all procedural guarantees under article 14 of the Covenant.

**Non-discrimination and equal rights of men and women (arts. 2, 3, 17 and 26)**

6. In the light of the Committee's previous concluding observations (para. 10), please provide information on the mandate and activities of the national councils for gender equality, intergenerational equality, equality of peoples and nationalities, persons with disabilities, and equality in human mobility. Please provide information on training for judges, prosecutors and members of the security forces and on measures taken to protect Afro-Ecuadorians and indigenous persons, including any awareness-raising campaigns conducted and their impact. Please also provide statistical information on complaints of discrimination received during the period under review, specifying the grounds for discrimination, the investigations conducted and their outcome, and the redress granted to the victims.

7. In the light of the Committee's previous concluding observations (para. 12), please provide updated information on the measures taken – including training for judges, prosecutors, members of the security forces and medical practitioners, and awareness-raising campaigns and their impact – to prevent and combat violence and discrimination based on sexual orientation or gender identity, including in the education system, and steps taken to prosecute and punish those responsible. Please also provide information on investigations, prosecutions and convictions related to the killings of lesbian, gay, bisexual, transgender and intersex persons; on measures taken, including legal initiatives, to effectively eradicate the practice of placing people in clinics for “treatment to cure sexual identity or gender identity”; and on the investigation, prosecution and punishment of those responsible for such treatments and adequate redress for the victims.

8. With reference to the previous concluding observations (para. 8), please provide information on:

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<sup>7</sup> CCPR/C/128/2.

<sup>8</sup> CCPR/C/126/2/Add.2.

- (a) Measures taken to eliminate gender stereotypes;
- (b) Efforts made to increase the representation of women, including indigenous women, in the public and private sectors, particularly in political positions, and the results achieved;
- (c) Measures taken to ensure equal pay for equal work and their impact.

**Violence against women, children and adolescents (arts. 2, 3, 6, 7, 24 and 26)**

9. With reference to the previous concluding observations (para. 14), please provide:
- (a) Statistical data, disaggregated by age, nationality and ethnicity, on the number of complaints filed concerning different forms of violence against women, including specific data relating to the period of the COVID-19 pandemic;
  - (b) Information on investigations conducted and their outcomes, sentences handed down to perpetrators and measures of redress granted to victims;
  - (c) Information on the implementation of the National Plan for the Elimination of Gender Violence against Children, Adolescents and Women with a view to attaining specific benchmarks;
  - (d) Information on progress made in the National Assembly towards the adoption of the draft Organic Code for the Comprehensive Protection of Children and Adolescents.
10. Please provide information on measures for the protection of children and adolescents whose mothers were victims of femicide, including information on the legislation applicable to their custody. Please also provide information on the implementation of Decree No. 696 of the Ministry of Economic and Social Inclusion, which provides for children and adolescents orphaned by femicide to receive an allowance, and comment on the information provided to the Committee according to which the implementation of the Decree has met with difficulties owing to the many criteria established for the classification of victims.
11. In the light of the Committee's previous concluding observations (para. 18), please provide information on measures taken by the State party to successfully prevent, combat and punish abuse and violence, especially sexual violence, against children and adolescents, including in educational institutions. In this regard, please provide statistical data on complaints of sexual offences, especially in educational institutions, during the period under review, and information on prosecutions, convictions and remedies. Please report on the implementation of the judgment of the Inter-American Court of Human Rights in the case of *Guzmán Albarracín et al. v. Ecuador*, adopted in June 2020.<sup>9</sup>

**Voluntary termination of pregnancy and reproductive rights (arts. 3, 6, 7, 17 and 26)**

12. With reference to the previous concluding observations (para. 16), please provide information on Judgment No. 34-19-IN/21 of the Constitutional Court, which decriminalized consensual abortion in cases of rape for all women and girls, even where the woman does not have a mental disability, and clarify the requirements for the implementation of this decision, particularly the requirement of authorization by a legal representative in cases involving girls or adolescents. Please also indicate whether the State party intends to introduce, in the Comprehensive Organic Criminal Code, an exception to the prohibition of voluntary termination of pregnancy in cases of fatal fetal impairment, and comment on reports that the exception under article 150 of the Code, whereby abortion is not punishable if performed in order to avoid "danger to the life or health of the mother", is interpreted in an excessively restrictive manner. Please include statistics on the number of cases in which legal abortions have been performed since the adoption of the Comprehensive Organic Criminal Code and the number of cases in which abortion has been denied, including the respective grounds, and indicate whether any criminal proceedings have been brought in cases of abortion.
13. Please provide information on: (a) measures taken to inform the general public about how a legal termination of pregnancy may be obtained; (b) the legal framework that allows

<sup>9</sup> *Guzmán Albarracín et al. v. Ecuador*, judgment of 24 June 2020, Series C No. 405.

for institutional conscientious objection; and (c) measures to ensure the professional secrecy of medical practitioners and patient confidentiality, and information on administrative, civil or criminal proceedings against medical service providers who fail to report cases of abortion.

**Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 6 and 7)**

14. Please provide information on the Strategic Plan for Comprehensive Border Security that was adopted in response to growing violence and insecurity on the northern border. Please describe measures taken to guarantee law and order and comment on reports that Ecuadorian law enforcement officers have committed human rights violations, including arbitrary detention, ill-treatment in detention and violations of the right to counsel and the right not to incriminate oneself. Please also provide information on measures taken to tackle the violence and insecurity affecting the inhabitants of the border area, particularly displaced indigenous peoples.

15. Please provide information on measures taken to prevent, investigate and punish human rights abuses and violations committed by law enforcement officers, especially torture and ill-treatment, and on the training provided to law enforcement officers. Please provide statistical data for the last five years on: (a) the number of complaints of human rights violations filed against police officers, especially those relating to torture and ill-treatment; (b) the number of disciplinary proceedings and actions brought in these cases; (c) the number of prosecutions, indicating the charges brought and the criminal and disciplinary sanctions imposed; and (d) the protection measures put in place and the compensation provided to victims in such cases.

**Excessive use of force (arts. 2, 6, 7 and 14)**

16. Please provide information on the bill on the use of force submitted in 2021 and on Ministerial Decision No. 179 on the progressive, rational and differentiated use of force by members of the armed forces and comment on their compatibility with the Covenant and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Please provide information on the number of criminal complaints received, investigations carried out and convictions handed down in relation to the inappropriate use of force, and on whether there are cases in which law enforcement officers have been granted immunity or special protection when they have used force.

**Persons deprived of their liberty and conditions of detention (arts. 6, 7, 9, 10, 14 and 26)**

17. Taking into consideration the previous concluding observations (para. 24) and the report on follow-up to the concluding observations,<sup>10</sup> please provide updated information on:

(a) The capacity of places of deprivation of liberty, including places where persons under the age of 18 are deprived of their liberty, the number of prisoners actually held in such places in the last three years and the specific steps taken to reduce overcrowding since the concluding observations were adopted;

(b) The number of people held in pretrial detention, the proportion of the total number of persons deprived of their liberty that they represent, and the application by the courts of alternatives to detention;

(c) The new prison management model, including the date on which it was introduced and details of how it operates in practice.

18. Please also provide information on measures taken in detention centres to prevent the spread of COVID-19, including the potential release of detainees and measures to improve sanitary conditions. Please provide information on the violence that broke out on 23 February 2021 in three social rehabilitation centres, resulting in 79 deaths and dozens of injuries, and comment on allegations that detainees received death threats and were deprived of food and

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<sup>10</sup> CCPR/C/126/2/Add.2.

water for 48 hours. Please provide information on the investigations conducted, the prosecutions brought and the sanctions imposed.

**Trafficking in persons (art. 8)**

19. Please provide information on the efforts made during the period under review to prevent and eradicate trafficking in persons, including domestic trafficking, and on the results of these efforts. In particular, please include information on measures taken in the vicinity of the northern border to combat forced recruitment and sexual exploitation and abuse. Please also provide statistical information on the number of complaints of trafficking in persons received, the investigations conducted and their outcomes, including the sentences handed down to perpetrators.

**Right to a fair trial and independence of the judiciary (art. 14)**

20. Taking into consideration the Committee's previous concluding observations (para. 26), please provide information on:

(a) Measures taken to strengthen the independence of judges and prosecutors during the period under review;

(b) The recent judgment (No. 3-19-CN/20) of the Constitutional Court, in which the Court ruled that the "prior judicial declaration" of "criminal intent", "evident negligence" or "inexcusable error" must be issued by the immediately superior judge or court;

(c) The system for imposing disciplinary sanctions on judges, magistrates and prosecutors and whether it ensures their impartiality and independence, in accordance with the Covenant.

21. Please provide information on the Council for Citizen Participation and Social Control and on whether it has followed regular procedures to evaluate the authorities of public institutions directly concerned with judicial independence and whether its actions are in keeping with international standards on the independence of the judiciary. Please comment on reports received by the Committee that the referendum held on 4 February 2018, which led to the reorganization of the Council for Citizen Participation and Social Control, was carried out without obtaining the prior opinion of the Constitutional Court, in violation of the Constitution.

**Treatment of aliens, including refugees and asylum seekers (arts. 12, 13 and 14)**

22. Please provide information on the National Council on Equality in Human Mobility established pursuant to the Organic Act on National Equality Councils of 2014 and indicate whether it is operational and has sufficient financial and human resources to function correctly. Please provide information on the rules applicable to cases of deportation or expulsion, including the judicial remedies that are available to persons facing such measures, and whether they are in full conformity with the Covenant. Please also provide information on the measures taken to ensure access to efficient refugee status determination procedures and full respect for the principle of non-refoulement when there are substantial grounds for believing that a real risk of irreparable harm exists, including in border areas.

23. Please provide information on measures taken to address the high migratory flow at the northern border. In particular, please comment on reports of exploitation of migrants due to a lack of travel documents, discrimination and barriers to migrant regularization and asylum processes.

**Human rights defenders (arts. 9, 21 and 22)**

24. Please describe the legal framework for the protection of human rights defenders and the practical measures that have been taken to ensure their security and integrity and the exercise of their activities. In this regard, please provide information on the functioning of the councils of defenders of human rights and of nature established pursuant to Decision No. 057-DPE-CGAJ-2020 of the Ombudsman's Office. Please also supply information on recorded cases of attacks on human rights defenders and threats against them, and on whether anyone has been tried and/or convicted of such acts.

**Freedoms of expression and association and arbitrary or unlawful interference with privacy (arts. 6, 7, 9, 17, 19, 21 and 22)**

25. Taking into consideration the Committee's previous concluding observations (para. 30), please provide information on the adoption of a new organic act on communication and, in this regard, state whether the bill under consideration is in conformity with article 19 of the Covenant and whether civil society and international organizations have been consulted on its drafting. Please also provide information on the adoption of the Digital Violence Act and comment on reports that the Act is ambiguous in its definitions and scope, is essentially punitive in nature and may be harmful to the protection of privacy and freedom of expression.

26. Please provide information on the guarantees in place to ensure the rights to freedom of expression and association enshrined in articles 19 and 21 of the Covenant. Please respond to reports of serious abuses by law enforcement officers and serious acts of violence by demonstrators during the protests that took place between 3 and 16 October 2019. Please also provide information on the actions taken, including independent, impartial and transparent investigations, since the publication of the report of the Special Commission for Truth and Justice, which recorded the alleged human rights violations committed during the protests.

27. Please provide information on the legislative work done by the National Assembly since May 2021 in respect of the bill on the use of force by the police and on its compliance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

**Rights of indigenous peoples (art. 27)**

28. Bearing in mind the Committee's previous concluding observations (para. 26), please provide information on:

(a) Measures taken for the protection of indigenous peoples, including any awareness-raising campaigns and their impact, and specific data relating to the period of the COVID-19 pandemic;

(b) Measures for the enactment of legislation guaranteeing the free, prior and informed consent of indigenous peoples regarding legislative or administrative measures liable to affect them directly;

(c) Measures to ensure the participation of representative indigenous organizations in discussions on legislative measures or regulations containing provisions on prior consent, and to ensure that such measures are in conformity with international standards;

(d) Consultation processes held with communities affected by projects in their territory, particularly the communities of the parish of Molleturo in the Province of Azuay (affected by the Río Blanco project operated by Ecuagoldmining South America SA), those of the Province of Zamora-Chinchipe (affected by the Mirador and Fruta del Norte projects) and those of Morona-Santiago (affected by the San Carlos Panantza project).

29. Please provide information on measures taken to ensure access to justice for indigenous persons, in their own language and with respect for their culture, and to ensure effective cooperation between the indigenous and ordinary jurisdictions. Please comment on the information received by the Committee according to which the indigenous justice system is delegitimized and legally challenged and many indigenous authorities face criminal prosecution for exercising their functions.