



# Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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## Committee against Torture

### Concluding observations on the eighth periodic report of Ecuador\*

1. The Committee considered the eighth periodic report of Ecuador<sup>1</sup> at its 2111th and 2114th meetings,<sup>2</sup> held on 9 and 10 July 2024, and adopted the present concluding observations at its 2128th meeting, held on 22 July 2024.

#### A. Introduction

2. The Committee expresses its appreciation to the State party for accepting the simplified reporting procedure and submitting its periodic report thereunder, as this improves the cooperation between the State party and the Committee and focuses the examination of the report and the dialogue with the delegation.

3. The Committee appreciates having had the opportunity to engage in a constructive dialogue with the State party's delegation and the responses provided to the questions and concerns raised during the consideration of the eighth periodic report.

#### B. Positive aspects

4. The Committee welcomes the State party's ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, in 2018.

5. The Committee welcomes the State party's initiatives to revise and introduce legislation in areas of relevance to the Convention, including:

(a) The approval of the Act for the Provision of Support and Transformative and Comprehensive Reparation to Daughters, Sons, Mothers, Fathers and Other Relatives of Victims of Femicide and Other Gender-related Killings, in 2024;

(b) The approval of the Organic Act on Trafficking in Persons and Smuggling of Migrants, in 2023;

(c) The adoption of the Organic Act Governing the Legitimate Use of Force, in 2022;

(d) The adoption of the Organic Act on the Ombudsman's Office,<sup>3</sup> in 2021;

(e) The adoption of an organic act amending article 570 of the Comprehensive Organic Criminal Code to establish the competence of judges specializing in cases of

\* Adopted by the Committee at its eightieth session (8–26 July 2024).

<sup>1</sup> CAT/C/ECU/8.

<sup>2</sup> See CAT/C/SR.2111 and CAT/C/SR.2114.

<sup>3</sup> National Assembly of the Republic of Ecuador, Fifth Supplement to *Registro Oficial* No. 452, 14 May 2021.



violence against women or family members to deal with offences against sexual and reproductive integrity, in 2019;

(f) The approval of the Comprehensive Organic Act to Prevent and Eradicate Violence against Women, in 2018;

(g) The amendment of the Constitution to include article 46 (4), which states that the prosecution and punishment of offences against sexual and reproductive integrity committed against children and adolescents may not be subject to a statute of limitations, in 2018.

6. The Committee commends the State party's initiatives to modify its policies and procedures in order to afford greater human rights protection and to apply the Convention, including:

(a) The adoption of the implementing regulations of the Organic Act on the Ombudsman's Office, through Executive Decree No. 134, with the aim of expanding access to justice by assisting people who, due to economic, social or cultural constraints, cannot hire private legal services, in 2024;

(b) The creation of an inter-agency road map for shutting down and prosecuting natural and legal persons that offered to suppress or change people's sexual orientation, gender identity and/or gender expression and for identifying, rescuing and assisting the people affected, in 2023;

(c) The adoption of the National Strategy for Comprehensive Sex Education, in 2023;

(d) The approval of the Protocol on Intercultural Dialogue in the Judicial Branch and the Guide on Coordination and Cooperation between the Indigenous and Ordinary Justice Systems in Cross-jurisdictional Proceedings, through Decision No. 53, in 2023;

(e) The adoption of the National Plan on Psychosocial Risk Prevention and the Creation of Protective Educational Environments, in 2023, and the National Plan for the Eradication of Violence in Educational Settings, in 2021;

(f) The establishment of a preventive mechanism for the protection of media professionals, in 2023;

(g) The creation of a specialized unit within the Attorney General's Office to investigate the unlawful use of force, in 2022;

(h) The adoption of the 2019–2030 Action Plan against Trafficking in Persons and the updated version thereof for the period 2024–2030;

(i) The adoption of the 2022–2025 LGBTI+ Diversity Action Plan and the 2018–2021 National Agenda for Women and Lesbian, Gay, Bisexual, Transgender and Intersex Persons;

(j) The adoption of the 2022–2025 Social Rehabilitation Policy;

(k) The adoption of the 2019–2025 Strategic Plan of the Judiciary;

(l) The approval of the 2017–2021 National Sexual and Reproductive Health Plan and the 2018–2025 Intersectoral Policy for the Prevention of Child and Adolescent Pregnancy;

(m) The establishment of the Central Register of Acts of Violence, a digital platform that contains standardized national data on acts of violence against women, in 2022;

(n) The establishment of a network of protection and assistance services for victims, led by the National System of Protection and Assistance for Victims, Witnesses and Other Participants in Criminal Proceedings, in 2020;

(o) The adoption of the 2020–2030 National Plan to Prevent and Eradicate Violence against Women;

(p) The adoption of the 2021–2025 National Agenda for Equality in Human Mobility;

(q) The conclusion of an inter-agency cooperation framework agreement between the Comprehensive Care Service for Adults Deprived of Liberty and Juvenile Offenders and the International Committee of the Red Cross, in 2019;

(r) The issuance of Decision No. 077-DPE-CGAJ-2019 on the promotion and protection of the rights of defenders of human rights and the environment, by the Ombudsman's Office, in 2019.

7. The Committee welcomes the fact that the State party has issued a standing invitation to the Human Rights Council special procedure mandate holders.

## C. Principal subjects of concern and recommendations

### Pending follow-up issues from the previous reporting cycle

8. In its previous concluding observations,<sup>4</sup> the Committee requested the State party to provide information on the follow-up given to the recommendations relating to allegations of torture and ill-treatment in prisons, victim and witness protection, and abuse and sexual violence against minors in schools.<sup>5</sup> In view of the information received from the State party on 5 January 2018 on follow-up to the concluding observations<sup>6</sup> and the information contained in the State party's eighth periodic report, and with reference to the letter sent to the State party on 20 August 2018 by the Rapporteur for follow-up to concluding observations,<sup>7</sup> the Committee considers that the recommendations contained in paragraphs 32, 38 and 48 of the previous concluding observations have been partially implemented. Those issues are addressed in paragraphs 17, 18, 21, 22, 29 and 30 of the present concluding observations.

### Definition of torture

9. The Committee takes note of the amendments made to the Comprehensive Organic Criminal Code in 2019, in particular its article 89 regarding the crime of torture as a crime against humanity, and the definition of torture and cruel, inhuman or degrading treatment committed in the context of armed conflict in its article 119. However, the Committee reiterates its previous concern<sup>8</sup> that the scenarios covered by article 151 of the Code have not been defined in accordance with article 1 of the Convention. It is particularly concerned that the defining features of the offence differ from those set out in article 1 of the Convention as regards who may be considered the perpetrator of the offence and the reasons or factors motivating the use of torture. Furthermore, while noting the explanations provided by the State party on the direct application of the Convention in its legal system, the Committee expresses its concern that the Comprehensive Organic Criminal Code does not expressly establish the non-applicability of statutory limitations to the offence of torture and takes note of the State party's commitment to draft legislation that establishes the non-applicability of statutory limitations to the provisions on torture (arts. 1 and 4).

**10. The Committee reiterates its previous concluding observations<sup>9</sup> and recommends that the State party amend article 151 of the Comprehensive Organic Criminal Code to bring the definition of torture fully into line with article 1 of the Convention, by identifying the perpetrator of the basic offence and the reasons or factors motivating the use of torture. It also recommends that the State party amend the Comprehensive Organic Criminal Code to expressly include the offence of torture among the offences to which no statute of limitations is applicable, in order to avoid the**

<sup>4</sup> CAT/C/ECU/CO/7, para. 57.

<sup>5</sup> Ibid., paras. 32, 38 and 48.

<sup>6</sup> See CAT/C/ECU/CO/7/Add.1.

<sup>7</sup> See

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FFUL%2FECU%2F32209&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FFUL%2FECU%2F32209&Lang=en).

<sup>8</sup> CAT/C/ECU/CO/7, para. 12.

<sup>9</sup> Ibid.

**possibility of impunity during the investigation of acts of torture and facilitate the prosecution and punishment of perpetrators.**

#### **States of emergency and the militarization of public safety operations**

11. The Committee recognizes the security challenges faced by the State party as a result of violence related to organized crime. It also takes note of the declaration of a state of emergency throughout the national territory and in detention centres due to “serious internal disturbances”, with the consequent participation of the armed forces in public safety operations and security checks in social rehabilitation centres alongside the national police, as of 8 January 2024, which has subsequently been restricted to specific areas of the country. In addition, it takes note of the declaration of a state of emergency due to an “internal armed conflict” as of 9 January 2024 and the explanations provided by the delegation on the existence of an armed conflict in the country. However, the Committee regrets that it has not received exhaustive information on the measures taken to comply with the rulings of the Constitutional Court, in which the Court noted a lack of evidence that the situation was too much for ordinary constitutional mechanisms and warranted the declaration of a state of emergency due to an internal armed conflict. Furthermore, the Committee is concerned about reports of violations of the Convention during the state of emergency, due to excesses in the actions of the armed forces to maintain public safety, including acts of torture, unlawful detention and alleged extrajudicial executions (art. 2).

**12. The State party should ensure that the rules governing the application of the state of emergency are compatible with its international human rights obligations, including the principles of legality, necessity and proportionality, and that members of the national police and the armed forces strictly observe the absolute prohibition of torture, in accordance with article 2 (2) of the Convention. It must also ensure that the tasks of maintaining public order and public safety are carried out, as a rule, by civilian police forces and only by members of the armed forces when absolutely necessary, on an exceptional, temporary and complementary basis and in full accordance with international human rights standards.**

#### **Fundamental legal safeguards**

13. The Committee welcomes the information provided by the State party on the implementation of the fundamental safeguards against torture and ill-treatment established in national legislation, as well as the improvements in public defence services. However, the Committee remains concerned about reports that the safeguards in question are not rigorously applied in practice, especially during the first hours of deprivation of liberty. According to these reports, this was particularly true in the case of the demonstrators arrested at the protests of October 2019 and 2022 and during the state of emergency declared in January 2024. In this regard, the Committee is concerned about reports of: (a) prolonged incommunicado detention; (b) arbitrary detention, where the arrested person has not been informed of the reasons for the arrest; (c) difficulties in notifying a family member or a third party and/or a legal representative of the detention; (d) delays and shortcomings in the provision of public defence services; and (e) insufficient access to an independent medical examination upon detention. The Committee is also concerned about the shortcomings in the system for registering persons deprived of their liberty in coordination with the competent authorities of the judiciary and the Public Defence Service, although it notes the work that is under way to optimize data in that area and conduct a census of the prison population (art. 2).

**14. The State party should take effective measures to prevent arbitrary and incommunicado detention, and ensure that detained persons enjoy in practice all fundamental safeguards from the outset of their deprivation of liberty, in accordance with international standards, in particular the right to be informed of the reasons for their detention; to promptly notify a family member or third party and/or legal representative of their detention; to be promptly assisted by a lawyer and to receive high-quality legal assistance free of charge where necessary; and to undergo a confidential medical examination performed free of charge by an independent practitioner or a doctor of their choice, if they so request. It should also ensure that detention is systematically recorded in a centralized register of persons deprived of their**

**liberty that is accessible to their legal representatives and relatives, and strengthen the data management system in this regard.**

#### **Prison crisis, violence and deaths in prisons**

15. The Committee takes note of the explanations provided by the delegation on the various measures taken to strengthen the institutional framework and the administration of the prison system since 2023. However, it notes with concern the serious shortcomings in the State party's prison system, both in terms of the treatment of persons deprived of their liberty and the management of the facilities, including the lack of a solid institutional framework for the formulation of public policies, strategies and regulatory reforms in this area. The Committee is particularly concerned about reports that it received describing situations of self-governance and extortion in prisons, a lack of prison and security personnel, corruption and access to firearms and narcotics in prisons, as well as frequent riots and other violent events, including the deaths of more than 680 people between 2018 and 2023.<sup>10</sup> According to information provided by the delegation, a state of emergency has been declared in prisons on numerous occasions since 2019 and, on 13 January 2024, the armed forces were mobilized to maintain security inside prisons, as a temporary, subsidiary and extraordinary measure. In this regard, the Committee is concerned that the State party has continued to adopt measures of a military nature in response to the prison crisis without developing a comprehensive, human rights-based plan to address the systemic causes of the crisis. The Committee is also concerned about reports describing significant delays in identifying individuals who have died in custody and the lack of information provided to family members on the whereabouts and conditions of persons deprived of their liberty, as well as incomplete information on the investigations opened in this regard (arts. 2, 10, 11 and 16).

16. **Taking into account the information provided in the eighth periodic report, and the voluntary commitments made by Ecuador in the context of the universal periodic review in November 2022,<sup>11</sup> the State party should:**

(a) **Redouble its efforts to promote and implement a comprehensive plan to address the current prison crisis and its root causes from a human rights perspective, prioritizing policies for rehabilitation, re-education and social reintegration, the demilitarization of prison control and the prevention of violence;**

(b) **Continue taking all necessary measures to strengthen the institutional framework of the agencies responsible for the administration and management of the prison system, in order to enhance their capacity to formulate public policies, strategies and budgets in this regard;**

(c) **Ensure that the armed forces strictly comply with human rights standards during their temporary operations in prisons and progressively withdraw the troops deployed in prisons, while ensuring that prisons have additional resources to ensure security on their premises, including sufficient, specialized and adequately trained prison and security staff to guard prisoners;**

(d) **Ensure that prisons are also staffed with the necessary civilian personnel, including qualified and properly trained technical and medical personnel;**

(e) **Ensure that all cases of violence and deaths in custody are investigated promptly and impartially by an independent body, with due regard for the Minnesota Protocol on the Investigation of Potentially Unlawful Death and the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), as revised; and establish a central, digitized register of cases of deaths and violence in custody.**

<sup>10</sup> See <https://www.ohchr.org/en/press-releases/2022/10/ecuador-un-torture-prevention-body-remains-seriously-concerned-prison-crisis>; <https://www.ohchr.org/en/press-briefing-notes/2022/05/ecuador-prison-violence>; <https://www.ohchr.org/en/press-briefing-notes/2022/02/press-briefing-notes-ecuador>; and <https://www.ohchr.org/en/press-releases/2023/07/ecuador-un-human-rights-chief-concerned-spike-violence-and-backward-step>. See also communications ECU 5/2022 and ECU 4/2023. All communications mentioned in the present concluding observations are available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

<sup>11</sup> [A/HRC/52/5](#), paras. 100.12–100.19 and 101.1; and [A/HRC/52/5/Add.1](#).

**Allegations of torture and ill-treatment**

17. The Committee expresses its deep concern at reports documenting numerous allegations of torture and ill-treatment of persons deprived of their liberty, including insults, punches, beatings with sticks and metal cables, the use of pepper spray inside cells, simulated drowning in water tanks and sexual assaults, allegedly committed by members of the security forces and the armed forces. While noting the measures taken by the State party to ensure that complaints can be lodged in places of deprivation of liberty, the Committee is concerned at reports that there is no effective, confidential and secure internal mechanism for handling complaints of torture or ill-treatment. The Committee regrets that the State party has not submitted full information in this regard, although it takes note of some data provided on 1,779 disciplinary procedures carried out since 2021 (resulting in the dismissal of 169 persons) and on 813 cases of abuse of authority in the exercise of one's duties and torture, recorded between 2020 and 2024. However, the Committee notes with concern the limited progress made in the investigations (612 cases under preliminary investigation and 113 closed), as well as the low number of prosecutions (four convictions). Lastly, it notes the explanation provided by the delegation on the establishment of a commission made up of military personnel to monitor detention centres, in May 2024. The Committee is concerned that the commission is not an independent civilian body (arts. 2, 11–14 and 16).

**18. The State party should:**

(a) **Ensure thorough, impartial, independent, prompt and effective investigations into all allegations of torture and ill-treatment by law enforcement officers, prison staff or troops deployed in prisons, and ensure that those suspected of having committed such acts are immediately suspended from duty for the entire period of the investigation, while at the same time ensuring that the principle of the presumption of innocence is respected;**

(b) **Prosecute all persons suspected of having committed an act of torture or ill-treatment and, if they are found guilty, ensure that they receive sentences that are commensurate with the gravity of their acts and that the victims and/or their families are afforded appropriate redress and compensation in a timely manner;**

(c) **Establish an independent, effective, confidential and accessible complaints mechanism in all places of deprivation of liberty, and protect alleged victims and witnesses and their relatives from any risk of reprisals;**

(d) **Allow for the monitoring of places of deprivation of liberty by recognized independent human rights bodies and specialized health bodies;**

(e) **Ensure that the Istanbul Protocol, as revised, forms an essential part of the training provided to all medical professionals and other public officials working with persons deprived of their liberty.**

**Conditions of detention**

19. The Committee takes note of the information provided by the State party on measures to reduce prison overcrowding, including the granting of presidential pardons, a review of cases with a view to granting prison benefits and the forthcoming construction of two new prisons. However, it remains concerned about the overcrowding in almost half of the country's prisons, resulting from a punitive criminal policy that introduced new criminal offences and harsher penalties; the excessive use of pretrial detention (which accounts for more than 40 per cent of the prison population); and the lack of courts specializing in enforcing prison safeguards, as provided for in Ecuadorian law. Also, while noting the plans to maintain and improve infrastructure in 10 prisons, announced by the delegation, the Committee remains concerned about the reports that it received regarding:

(a) Shortages of food and water: despite statements to the contrary by the delegation, there have been reports of detainees and even deceased persons showing signs of malnutrition, as well as inadequate hygiene and cleanliness;

(b) The lack of medical and psychological care for inmates<sup>12</sup> due to restrictions imposed by military personnel on the access of health professionals, the unsafe working conditions faced by health professionals in several prisons, shortages of medicines, and shortcomings in campaigns to prevent and treat infectious and chronic diseases and in addiction rehabilitation programmes;

(c) The lack of separation between pretrial and convicted prisoners and the distribution of inmates according to their alleged membership of criminal gangs rather than by category, although the Committee notes the measures taken by the State party to remedy this situation;

(d) The fact that inadequate attention is paid to the specific needs of persons with physical and psychosocial disabilities who are deprived of their liberty, although it is recognized that measures have been taken to improve conditions of detention for older prisoners and women prisoners with children in the prison environment;

(e) The lack of security for women prisoners and the abuses they suffer, including sexual violence, sexual exploitation in exchange for food or basic items and invasive body searches, and shortcomings in the specialized medical care received by women prisoners and in their access to social and work reintegration programmes;

(f) The discrimination and abuse suffered by lesbian, gay, bisexual and transgender persons deprived of their liberty at the hands of other prisoners and the security and military personnel present in prisons, and the confinement of trans women in men's wings, although the Committee notes with interest the development of a protocol for the proper care of such persons;

(g) Deficiencies in the system for communicating with and visiting persons deprived of their liberty and the frequency of invasive body searches of family members, especially women;

(h) The limited progress made in the implementation of the Social Rehabilitation Policy (arts. 2, 11 and 16).

20. **The State party should:**

(a) **Continue its efforts to ease overcrowding in detention centres, mainly by making use of alternatives to custodial sentences; ensure that improvements to existing prisons and the construction of new maximum security prisons are carried out in accordance with international standards; and take urgent measures to remedy deficiencies in prison conditions that are contrary to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);**

(b) **Ensure that pretrial detention is used as a last resort and for the shortest possible time, adopting alternative measures whenever possible. In this connection, the Committee draws the State party's attention to the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);**

(c) **Continue to improve medical care and healthcare in detention centres, including campaigns to prevent, detect and treat infectious and chronic diseases, as well as addiction rehabilitation programmes;**

(d) **Ensure that the prison population is separated by categories, by enforcing the strict separation of pretrial and convicted prisoners, and take steps to prevent clashes between criminal gangs;**

(e) **Adopt specific measures to provide persons with disabilities with personalized reasonable accommodation and accessible facilities in prisons;**

(f) **Adopt measures to prevent and eliminate sexual violence and ill-treatment of women and gay, lesbian, bisexual and transgender persons, ensuring that incidents are documented in order to guarantee that they are investigated and punished;**

<sup>12</sup> [A/HRC/WGAD/2021/39](#).

(g) **Re-establish safe and accessible communication mechanisms that guarantee regular contact between persons deprived of their liberty and their families, and guarantee the visiting regime for persons deprived of their liberty;**

(h) **Ensure that invasive body searches are carried out only when absolutely necessary, using appropriate alternative methods whenever possible (see rule 52 of the Nelson Mandela Rules);**

(i) **Guarantee the implementation of the Social Rehabilitation Policy by allocating the resources necessary for it to be put into practice;**

(j) **Consider authorizing the publication of the reports of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on its visits to Ecuador in 2014 and 2022.**

#### **Abuse and sexual violence against children in schools**

21. The Committee takes note of the statistical information provided by the State party on the monitoring of cases of sexual offences in the educational sphere and the implementation of a number of initiatives to prevent this type of crime, such as the adoption of protocols and the development of training programmes. However, it notes that there are still very high rates of sexual violence in the country's schools, with 24,821 victims between 2014 and 2024, and that many victims face obstacles in gaining access to justice, as well as revictimizing processes. According to the delegation, 93.78 per cent of victims of sexual violence in the education system received support between 2018 and 2024. However, the Committee remains concerned that adequate specialized services in this area are still not fully available, despite the reparation measures called for in the judgment of the Inter-American Court of Human Rights in the case of *Guzmán Albarracín et al v. Ecuador* (arts. 2 and 16).<sup>13</sup>

22. **The State party should strengthen measures aimed at preventing and appropriately addressing cases of child sexual abuse in schools and should, in particular, urge all competent authorities to investigate such abuse and ensure that the perpetrators are prosecuted and punished. It should also strengthen measures aimed at ensuring full compliance with the judgment of the Inter-American Court of Human Rights in the case of *Guzmán Albarracín et al v. Ecuador*; ensure survivors' access to comprehensive reparation and specialized assistance and support; offer the broadest possible protection to victims; and continue to run public awareness campaigns and training for educational staff on the prevention of sexual violence.**

#### **Juvenile justice**

23. The Committee is concerned about reports that deprivation of liberty in rehabilitation centres is imposed on offenders over 12 years of age for serious offences and offenders over 14 years of age for other offences. The Committee regrets the limited information provided by the State party on the use of alternatives to deprivation of liberty in cases involving children in conflict with the law, the monitoring of juvenile detention centres by independent bodies and the internal complaint mechanisms available. It is also concerned about reports that solitary confinement is used as a disciplinary measure against minors deprived of their liberty, in violation of the Constitution. In addition, it is concerned about reports of the recruitment of children in conflict with the law by criminal groups present in detention centres (arts. 2, 11 and 16).

24. **The State party should ensure that children are detained only as a last resort, for the minimum necessary period and only in exceptional cases and that alternatives to detention are used whenever possible. The State party should respect the prohibition on solitary confinement and similar measures for juveniles, ensure protection from criminal groups and maintain adequate conditions of detention in detention facilities, in accordance with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.**

<sup>13</sup> Judgment of 24 June 2020.



## Training

25. The Committee acknowledges the efforts made by the State party to develop and implement educational and training modules on human rights, including on the absolute prohibition of torture, for law enforcement officers, prison staff, judges, prosecutors, members of the armed forces and public defenders. However, it regrets the limited information on mandatory and in-service training on the Istanbul Protocol, as revised, and on mechanisms for evaluating the effectiveness of training programmes and their implementation (art. 10).

26. **The State party should continue to implement mandatory initial and in-service training programmes in order to ensure that all relevant public officials are acquainted with the provisions of the Convention, especially the absolute prohibition of torture, and that they are fully aware that violations engage international responsibility and will be investigated and that those responsible will be prosecuted and appropriately punished. In addition, the State party should monitor and evaluate such training to assess its effectiveness, and ensure that all relevant personnel, including members of the judiciary, receive mandatory initial and in-service training on preventing and identifying cases of torture and ill-treatment, including training on the Istanbul Protocol, as revised. The Committee invites the State party to continue to strengthen its collaboration with international organizations and civil society organizations on the development of training courses on these issues.**

## National preventive mechanism

27. The Committee notes the establishment in 2020 of the National Directorate of the National Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment through an organic statute issued by the Ombudsman's Office. However, it is concerned about the lack of specific provisions on the mandate and functional and operational independence of this mechanism in the Organic Act on the Ombudsman's Office. The Committee is also concerned that the mechanism carries out additional activities alongside its preventive mandate and that its staff are overburdened as a result. In addition, the Committee is of the view that the mechanism does not have sufficient financial and human resources or the necessary multidisciplinary technical personnel to be able to fully implement its mandate (art. 2).

28. **The State party should consider drawing up specific regulations establishing the mandate and powers of the national preventive mechanism, while ensuring its functional and operational independence and providing it with sufficient financial and human resources and an adequate budget that enables it to implement its preventive mandate, in accordance with the Optional Protocol to the Convention. It should also encourage the active participation of civil society in the work of the mechanism. In this regard, the State party is invited to consider seeking technical assistance from the Regional Office for South America of the Office of the United Nations High Commissioner for Human Rights.**

## Judicial independence and protection of victims and witnesses

29. The Committee notes the explanations provided by the delegation of the State party on the systems for the protection of justice officials and prosecutors. However, it is concerned about the numerous cases of threats, intimidation and violent attacks (including killings) suffered by justice officials, especially those in charge of cases involving corruption and organized crime.<sup>14</sup> The Committee also notes the information provided by the delegation on requests for protection but regrets the lack of information on specific measures taken to protect victims and witnesses of acts of torture, including forensic doctors (art. 13).

30. **The State party should continue to adopt the necessary security measures to guarantee the independence of justice officials, as well as measures to protect prosecutors, in accordance with the Guidelines on the Role of Prosecutors (guideline 5). It should also continue to strengthen measures to ensure that victims and witnesses of**

<sup>14</sup> See <https://www.ohchr.org/en/press-releases/2023/08/attacks-against-ecuadorian-judiciary-threaten-rule-law-warns-un-expert>. See also communication ECU 2/2023.

**torture, including forensic experts, receive legal protection and effective assistance. It should also ensure that all attacks and acts of harassment against justice officials are promptly, impartially and effectively investigated.**

#### **Investigation and prosecution of past human rights violations (1984–2008) and reparation for victims**

31. The Committee remains concerned that only three convictions have been handed down in connection with the 119 cases documented in the final report of the Truth Commission, published in 2010, and that several cases have reportedly been closed without investigation and without victims being notified. While noting the measures taken by the State party to provide reparation to victims of serious human rights violations and crimes against humanity, including symbolic measures and satisfaction, the Committee expresses its concern that only 156 of the 459 victims have received reparation to date. The Committee is aware of the budgetary difficulties in this regard and takes note of the State party's commitment to continuing to set aside the resources needed to compensate all victims identified by the Truth Commission (arts. 2, 12–14 and 16).

32. **In light of the Committee's previous recommendation,<sup>15</sup> the State party should strengthen the mechanisms for investigating human rights violations that occurred between 1984 and 2008, including acts of torture, enforced disappearances and extrajudicial executions, ensuring that the alleged perpetrators are brought to trial and, if found guilty, punished with appropriate penalties. The State party should ensure that full reparation is provided to victims and/or their families, in accordance with article 14 of the Convention, as interpreted by the Committee.<sup>16</sup>**

#### **Asylum and non-refoulement**

33. The Committee acknowledges the migration-related challenge faced by the State party, which hosts the largest recognized refugee population in the region and has experienced a significant increase in applications for international protection since 2019. However, it is concerned about reports that, in practice, there are still barriers to asylum for persons in need of international protection from certain countries or of certain nationalities. The Committee also remains concerned about the exceptions to the principle of non-refoulement, including the grounds for refusal of entry at borders, provided for in articles 106 and 137 of the Organic Act on Human Mobility of 2017, which establish that foreign nationals who have committed a serious crime in another country or who pose a threat or danger to public safety in the State party are excluded from the international protection system without being granted an individualized assessment of the risk of torture in the event of return or expulsion. The Committee takes note of the explanations provided by the delegation of the State party concerning the possibility of requesting international protection in such cases. Lastly, the Committee is also concerned about reports of shortcomings in the identification of persons with specific needs among asylum-seekers and refugees, such as persons with disabilities, victims of torture, including sexual violence, and victims of trafficking in persons, which hinder their proper referral to specialized services (art. 3).

34. **The State party should ensure that no one may be expelled, returned or extradited to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture. The Committee invites the State party to consider amending articles 106 and 137 of the Organic Act on Human Mobility in order to fully observe the principle of non-refoulement. The State party should also ensure that asylum-seekers and other persons in need of international protection, regardless of their nationality, have access to fair and efficient refugee status determination procedures. It should also continue working to ensure that persons with specific needs are identified promptly and appropriately and provided with access to specialized services, including medical care.**

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<sup>15</sup> CAT/C/ECU/CO/7, para. 24.

<sup>16</sup> See the Committee's general comment No. 3 (2012) on the implementation of article 14.

### Harassment of human rights defenders and journalists at risk

35. The Committee recognizes the initiatives undertaken by the State party to protect human rights defenders, environmental defenders and journalists, such as the establishment of specialized protection mechanisms and investigation protocols. However, the Committee expresses its serious concern at the numerous acts of harassment, intimidation and threats recorded during the period under review against indigenous and Afrodescendent leaders and other persons who take action to defend their territories and the environment, as well as journalists and human rights defenders, including the threats and intimidation they face when they speak out against the actions of the security forces and the armed forces in and outside prisons and the criminalization of their work (arts. 2, 12, 13 and 16).<sup>17</sup>

**36. The State party should take the necessary measures to ensure that journalists, human rights defenders and indigenous and Afrodescendent leaders can carry out their legitimate work in an environment free from threats, reprisals, violence and other forms of harassment. The State party should ensure that all acts of harassment and attacks against journalists, human rights defenders and indigenous and Afrodescendent leaders are investigated promptly, thoroughly and impartially, in order that the perpetrators are prosecuted and duly punished and the victims receive reparation. Lastly, the State party should prevent and avoid the misuse of criminal law against such persons.**

### Violence against women

37. Although it acknowledges the legislative and other measures that have been adopted to combat gender-based violence, the Committee is concerned about reports of limited progress in the implementation of the Comprehensive Organic Act to Prevent and Eradicate Violence against Women, as a result of budget cuts which may, among other things, negatively affect the sustainability of victim protection and support systems. The Committee also notes with concern that the rates of femicide and sexual violence against women and girls remain very high,<sup>18</sup> that very little progress has been made in the proceedings that are under way and that there is revictimization, all of which may result in impunity (arts. 2 and 16).

**38. In light of the pledges made by Ecuador during the Human Rights 75 initiative, the Committee recommends that the State party ensure that all cases of violence against women and girls, including cases of sexual violence and femicide, and in particular those involving actions or omissions by State authorities or other entities that engage the international responsibility of the State party, are thoroughly investigated; and that the alleged perpetrators are prosecuted and, if found guilty, duly punished. The State party should take the necessary measures to encourage and facilitate the filing of complaints by victims and to effectively address any obstacles that may impede access to justice. In addition, victims should have access to protection and support systems, as well as full reparation. The Committee also recommends that the State party continue and step up its efforts to combat gender-based violence, allocate sufficient resources to ensure the effective implementation of existing legislation in this area and continue to develop campaigns to prevent and raise public awareness of all forms of violence against women.**

### Violence based on sexual orientation or gender identity

39. While significant progress has been made in eliminating so-called “conversion therapies”, the Committee is concerned about reports that this type of abuse continues to occur in private clinics, as well as the challenges posed by the investigation of such practices and the effective protection of victims. It is also concerned about reports of cases of harassment and attacks based on sexual orientation or gender identity and the lack of comprehensive information on investigations carried out in this regard (arts. 12, 14 and 16).

<sup>17</sup> See communications ECU 3/2023; ECU 3/2022; and ECU 6/2022. See also <https://acnudh.org/cidh-y-onu-derechos-humanos-protoger-a-las-personas-defensoras-de-derechos-humanos-es-un-deber-de-los-estados/>.

<sup>18</sup> CEDAW/C/ECU/CO/10, paras. 21 and 22.

40. **The Committee recalls its previous concluding observations<sup>19</sup> and requests the State party to ensure that all cases of violence based on sexual orientation or gender identity are investigated, in order that the perpetrators are prosecuted and duly punished. The State party should also continue to take the necessary legislative and other measures to prohibit and eliminate so-called “conversion therapies” and other treatment involving forced confinement and ill-treatment based on sexual orientation or gender identity.**

#### **Abortion**

41. While noting the adoption in 2022 of the Organic Act on the Voluntary Termination of Pregnancy in Cases of Rape, which expanded the grounds for abortion in cases of rape, the Committee expresses its concern that abortion remains prohibited, except in cases of rape or threat to the mother’s life, under articles 149 and 150 of the Comprehensive Organic Criminal Code and that this forces women and girls to resort to clandestine abortions and puts them and the treating physicians at risk of criminal penalties. In addition, access to abortion in cases of incest and severe fetal malformation is not expressly recognized.<sup>20</sup> The Committee is also concerned about the limited application of the Organic Act on the Voluntary Termination of Pregnancy in Cases of Rape due to institutional conscientious objection in medical centres, the reduced time limits for abortion and the additional requirements, such as the need to provide a rape complaint, a sworn statement made by the victim and medical reports indicating signs of rape. The Committee notes that the application of these provisions has been temporarily suspended pursuant to the protective measures adopted by the Constitutional Court of Ecuador in 2022 (arts. 2 and 16).

42. **The Committee encourages the State party to amend articles 149 and 150 of the Comprehensive Organic Criminal Code in order to decriminalize abortion, taking into account the World Health Organization guidelines on abortion, as updated in 2022, and ensure that neither patients nor doctors face penalties. The State party should also consider amending the Organic Act on the Voluntary Termination of Pregnancy in Cases of Rape with a view to expressly including other legal exceptions to the prohibition of abortion, including when the pregnancy is the result of incest and in cases of severe fetal malformation. The State party should also ensure that women who are victims of rape have access to safe abortions and that conscientious objection by health professionals does not limit access to abortion. In addition, the State party should take measures to ensure access to medical care after an abortion, regardless of the circumstances in which it was carried out, and provide guidance and information on abortion and the available reproductive health services.**

#### **Universal jurisdiction**

43. The Committee is concerned that article 401 of the Comprehensive Organic Criminal Code allows universal jurisdiction to be exercised over acts of torture only when they have been committed as part of a widespread and systematic attack against the civilian population, although it notes the State party’s commitment to set up a working group of members of the judiciary to clarify the scope of universal jurisdiction (art. 5).

44. **The State party should, in accordance with article 5 (2) of the Convention, take legislative and other measures to establish its jurisdiction over offences of torture and other related offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him or her.**

#### **Indigenous jurisdiction**

45. Although the Committee welcomes the measures taken by the State party to ensure coordination and cooperation between the indigenous and ordinary justice systems, as well

<sup>19</sup> CAT/C/ECU/CO/7, paras. 49 and 50.

<sup>20</sup> CEDAW/C/ECU/CO/8-9, paras. 33 and 34.

as the advances in case law in this area,<sup>21</sup> it remains concerned that no law on coordination between the two spheres of justice has been adopted to date (art. 2).

46. **The Committee reiterates its previous recommendation<sup>22</sup> and encourages the State party to adopt, as prescribed by article 171 (2) of the Constitution, a law on coordination between the indigenous and ordinary justice systems in order to ensure respect for fundamental rights and freedoms, including the prohibition of torture and ill-treatment, and to formalize and strengthen the right to access to justice for all Indigenous Peoples.**

#### **Follow-up procedure**

47. **The Committee requests the State party to provide, by 26 July 2025, information on follow-up to the Committee's recommendations on the prison crisis, violence and deaths in prisons; conditions of detention; and abortion (see paras. 16 (a) and (e), 20 (i) and 42). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, the remaining recommendations in the concluding observations.**

#### **Other issues**

48. **The State party is requested to disseminate widely the report submitted to the Committee and the present concluding observations, in the appropriate languages, through official websites, the media and non-governmental organizations and to inform the Committee about its efforts to do so.**

49. **The Committee requests the State party to submit its next periodic report, which will be its ninth, by 26 July 2028. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its ninth periodic report under article 19 of the Convention.**

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<sup>21</sup> Constitutional Court, Judgment No. 112–14-JH-21.

<sup>22</sup> [CAT/C/ECU/CO/7](#), para. 20.