



Submission to the Universal Periodic Review (UPR) of the Republic of Ecuador

Human Rights Watch

March 2022

I. Summary

Ecuador faces serious human rights challenges, including poor conditions and violence in prisons, security agencies' excessive use of force, restrictions on women's and girls' access to reproductive health care, and limited protection of children's and refugees' rights. In 2021, the Constitutional Court decriminalized abortion when a pregnancy results from rape, but implementation is pending. Several allegations of corruption marred the Covid-19 pandemic response. Although reforms during former President Lenin Moreno's government (2017-2021) to repair damage to democratic institutions inflicted by his predecessor, former President Rafael Correa (2007-2017), improved the independence of key institutions, reports of trial delays, improper pressure on courts, and lack of due process in high-profile corruption cases continued.

II. Human Rights Issues

Poor Prison Conditions

During the 2017 UPR, the state supported a recommendation on taking measures to eliminate cases of torture in prisons.¹

During 2020 and 2021, conditions in prisons worsened, deepening the prisons' crisis. Violence, insufficient and poorly trained guards, excessive use of pretrial detention, inadequate health care, and overcrowding—with [some prisons](#) holding [roughly twice](#) their capacity for detainees—are among the longstanding problems.

Covid-19 outbreaks exacerbated poor conditions. Many [detainees](#) contracted the virus and fell ill in overcrowded cellblocks. Several [reportedly died](#). Measures to curb the spread of the virus—and to address episodes of violence—limited visits to prisons, leaving detainees with no contact with their families.

In November 2019, the Constitutional Court [held that the prison population](#) must have access to health services, including appropriate medication, treatment, and care. The court ruled that such services can be provided directly in detention facilities or through programs allowing treatment outside—or in exceptional cases, through alternatives to deprivation of liberty. The court ordered the Health Ministry and the national prison system to coordinate with prison authorities to grant access to health services.

Prisons are often controlled by criminal organizations that extort detainees and their families. Many detainees, including those in pre-trial detention or sentenced for minor crimes, are forced to work with organized crime groups to protect themselves or acquire basic necessities, such as mattresses, bedding, and health supplies. Gang members outside have reportedly coordinated crimes with members in prisons.

¹ 118.33 Take the necessary measures to eliminate cases of torture in prisons (Iraq); A/HRC/36/4 - Para. 118

More than 300 detainees were killed in four prison riots nationwide in 2021, an alarming reminder of official lack of control. Former president Lenín Moreno and current president Guillermo Lasso responded with several states of emergency in all prisons.

In December, President Lasso convened a commission to improve prison conditions.

Recommendations

- Adopt and expedite measures to end prison overcrowding and guarantee access to adequate health care, in accordance with standards provided in the Constitutional Court's decision.
- Create a plan to address the main issues affecting the prison system, including extortion, violence, lack of prison control and excessive use of pretrial detention and guarantee its adequate funding.

Use of Force by Security Forces

During the 2017 UPR, the state supported a recommendation that law enforcement and security forces be trained in management of peaceful assemblies and investigation of allegations of excessive use of force.²

When protests erupted on October 3, 2019, police used [indiscriminate force](#), including firing teargas directly at protesters and at close range, causing eye injuries, or in enclosed spaces, causing asphyxiation. In March, a truth commission created by the Ombudsperson's Office to investigate excessive use of force [attributed](#) the deaths of six protesters to security forces. It attributed around 75 percent of human rights violations during the protests to police and 13 percent to the military.

On May 6, 2021, the Constitutional Court [annulled](#) a May 2020 Defense Ministry resolution giving the military broad powers to participate in security operations at demonstrations and meetings, and to use lethal force. The court instructed the National Assembly to consider its relevant findings—and international standards—during debate of a bill, pending at time of writing, to regulate use of force by security agencies.

On May 14, 2020, police in Guayaquil used [excessive force](#), beating and injuring peaceful demonstrators protesting the government's handling of the Covid-19 pandemic.

² 118.31 Ensure training for law enforcement and security forces in relation to human rights standards in management of peaceful assemblies, ensure all allegations of excessive use of force and arbitrary detention are investigated and that perpetrators are prosecuted (Ireland); A/HRC/36/4 - Para. 118

In August 2021, the Ombudsperson's Office [found](#) that police officers used excessive force in the rural town of La Merced de Buenos Aires when dispersing residents who were blocking a road, protesting a government concession to an Australian mining company.

Police responded with [excessive force](#) to peaceful demonstrations commemorating International Women's Day on March 8, 2022. Videos show police using teargas, pepper spray, and pressurized liquid to disperse protesters. Media reported the incidents, as well as police hitting protesters.

Recommendations

- Promptly investigate all allegations of excessive use of force during the 2022 Women's Day march and any other peaceful protest and appropriately sanction members of the security forces responsible for abuses.
- Discuss and adopt laws regulating the legal, proportional, adequate, and necessary use of force, based on international human rights standards and the Constitutional Court ruling of May 6, 2021.

Women's Rights

In the 2017 UPR, the state supported recommendations for preventing or combatting all forms of discrimination and violence against women³—and for prosecuting and curbing gender-based violence.⁴

Civil society organizations reported [28 cases of femicide](#) so far in 2022.

³ 118.99 Implement its comprehensive health promotion policy and its policy framework for the elimination of discrimination against women (South Africa); A/HRC/36/4 - Para. 118; 118.122 Strengthen efforts to prevent and combat all forms of discrimination and violence against women and children and other vulnerable groups (Italy); A/HRC/36/4 - Para. 118; 118.121 Address social and cultural stereotypes underpinning discrimination and violence against women and ensure women's participation in decision-making (Ukraine); A/HRC/36/4 - Para. 118; 118.119 Continue combating all forms of discrimination against women (Djibouti); A/HRC/36/4 - Para. 118; 118.120 Step up efforts to eliminate all forms of discrimination against women (Greece); A/HRC/36/4 - Para. 118

⁴ 118.126 Continue to improve the procedures for prosecuting and sanctioning those responsible for acts of violence against women, as well as guaranteeing constant monitoring of the implementation of the national plan to eradicate gender-based violence against children (El Salvador); A/HRC/36/4 - Para. 118; 118.125 Continue its efforts to reduce and eradicate gender-based violence, ensuring due diligence in the pursuit and prosecution of acts of this nature and providing relevant training to the competent authorities on the protection of, and prevention of violence against, women and girls (Nicaragua); A/HRC/36/4 - Para. 118; 118.131 Ensure that women victims of violence receive appropriate help and perpetrators are brought to justice (Italy); A/HRC/36/4 - Para. 118

The state also supported recommendations for women's and girls' access to sexual and reproductive health services, including contraceptive methods.⁵ While the state did not take on recommendations for decriminalization and access to abortion during the last UPR, abortion has remained a prominent issue in the country.⁶

On April 28, 2020, the Constitutional Court [ruled](#) abortion decriminalized in all cases in which a pregnancy results from rape. Until then, abortion had been legal only when a pregnant person with a "mental disability" had been raped or when a pregnancy endangered the person's health or life.

To comply, the Ombudsperson's Office introduced a bill to guarantee access to abortion for victims of rape.

On February 17, 2021, the National Assembly approved a modest but important [bill](#), allowing rape survivors to access abortion without reporting the crime. To assure accessibility, the bill limited the grounds on which healthcare providers could cite conscientious objection and refuse service.

On March 15, President Lasso partially [vetoed](#) the abortion law and sent it back to Congress, which has 30 days to consider his proposed amendments narrowing its scope.

Stigmatization, mistreatment by health professionals, fear of criminal prosecution, and a narrow interpretation of the health exception [remain barriers to abortion access](#). Low-income women appear more likely to be prosecuted.

Recommendations

- Fully comply with the order of the Ecuadorian Constitutional Court to adopt legislation ensuring access to abortion for all survivors of rape without barriers that could limit real, effective, and comprehensive access.

⁵ 118.97 Continue to strengthen measures to deal with teenage pregnancies, by promoting access to reproductive health services for all, including sexual and reproductive health education, as well as counselling services and health care adapted to young people, in accordance with the commitments in the Montevideo Consensus on Population and Development (Uruguay); A/HRC/36/4 -Para. 118; 118.98 Ensure that all girls and women have access to comprehensive sexual and reproductive health promotion and care, including access to modern contraceptive methods (Estonia); Ensure that all women and girls have access to affordable and modern contraceptive methods (Iceland); A/HRC/36/4 - Para. 118; 118.100 In line with ongoing efforts in the field of sexual and reproductive health, take measures to combat violence against women and promote gender equality (France); A/HRC/36/4 - Para. 118

⁶ 120.17 Advance in reforming the Criminal Code to decriminalize abortion (Norway); Repeal laws criminalizing abortion in cases of rape, incest and severe fetal impairment and eliminate all punitive measures (Iceland); Reform the Comprehensive Criminal Code in relation to the legal extension of abortion and to decriminalize abortion in cases of rape, incest and severe fetal impairment (Slovenia); A/HRC/36/4 - Para. 120

- Ensure public information is disseminated nationwide, including to national and local authorities and health professionals, clarifying the circumstances under which abortion is currently legal.
- Ensure that access to legal abortion and post-abortion care are available nationwide.

Children's Rights

During the 2017 UPR, Ecuador supported recommendations to reform the education system,⁷ combat all forms of child abuse,⁸ and investigate and provide reparations in cases of ill-treatment and sexual violence in educational settings.⁹

Sexual violence is a longstanding, pervasive problem in public and private schools. Between January 2014 and February 2021, Ecuador's Education Ministry registered 3,777 complaints of sexual violence by teachers, administrative staff, and other students, including online. Given the low levels of reporting, those cases likely represent only a proportion of actual school-related cases of sexual violence.

Many young survivors of school-related sexual violence face re-traumatization in. Many also face significant barriers to access justice, including administrative hurdles, stigma and re-traumatization during judicial proceedings.¹⁰

On August 14 2021, Ecuador [commemorated](#) its first national day against sexual violence in schools, in compliance with a 2020 Inter-American Court of Human Rights ruling in the case of Paola Guzman [Albarracín v Ecuador](#). Ecuador [had yet to comply fully with measures the court ordered](#), including to train education staff to prevent and treat incidents and assist victims and their families, and to ensure children have access to comprehensive, science-based and scientifically accurate [sexuality education](#).

In March, the National Assembly changed Ecuador's education law, adding measures to prevent and tackle violence in schools and guarantee free access to information on sexuality and sexual and reproductive rights.

⁷ 118.101 Continue efforts to reform the education system because it is an important element to reduce poverty (Morocco); A/HRC/36/4 - Para. 118

⁸ 118.140 Continue combating all forms of child abuse (Djibouti); A/HRC/36/4 - Para. 118

⁹ 118.141 Ensure that all ill-treatment and sexual violence against children in educational settings is promptly, efficiently and impartially investigated, that perpetrators are brought to justice and that the victims receive reparation and are provided with the protection and support they require (Belgium); A/HRC/36/4 - Para. 118

¹⁰ Human Rights Watch, "It's a Constant Fight," School-Related Sexual Violence and Young Survivor's Struggle for Justice in Ecuador, December 2020, <https://www.hrw.org/report/2020/12/09/its-constant-fight/school-related-sexual-violence-and-young-survivors-struggle>.

The government's pandemic response included nationwide school closures for 169 days, from April 2020 to February 2021. Almost 4.5 million students –among them Indigenous children and those living in rural areas—have missed at least three-quarters of a year of classroom instruction. During the pandemic, only 4 out of 10 households with children under 5 have accessed early childhood development services, including pre-primary education.

Recommendations:

- Allocate adequate resources to prevent and tackle school-related sexual violence, including digital or tech-enabled sexual violence.
- Adopt age-appropriate comprehensive sexuality education and ensure it is a mandatory subject that is accessible to all students.
- Ensure all students are supported to safely return to school and prioritize accelerated learning support to students excluded from online or remote education.

Sexual Orientation, Gender Identity, and Sex Characteristics

During the 2017 UPR, Ecuador supported recommendations for combatting discrimination, especially against children, based on sexual orientation and gender identity.¹¹ In June 2021, the Secretary for Human Rights created a sub-secretarial office for diversity, to develop policies to prevent violence against lesbian, gay, bisexual, and transgender (LGBT) people, though the office will reportedly not have its own budget.

In June 2019, the Constitutional Court ruled in favor of same-sex marriage, declaring the country's marriage legislation unconstitutional. The National Assembly has not yet complied with the court's orders to revise legal provisions on civil marriage to include same-sex couples, to base gender recognition procedures for transgender people on self-determination, to regulate assisted reproduction methods, and to allow same-sex couples to register children with their surnames.

Ecuador's constitution – article 68 – discriminates against same-sex couples by excluding them from having access to adoption.

Recommendations

- Ensure that the sub-secretarial office for diversity has the resources to collect data and statistics on LGBT people and build awareness campaigns to promote LGBT tolerance.
- Implement the Constitutional Court's rulings by reforming legal provisions and regulating aspects that are still pending like assisted reproduction methods.
- Repeal part of article 68 of the Constitution that excludes same-sex couples from adopting.

¹¹ 118.23 Fight against discrimination based on sexual orientation and gender identity, especially against children, carrying out public awareness programmes and teacher training on this subject (France); A/HRC/36/4 - Para. 118; 118.18 Continue to increase efforts to end discrimination against lesbian, gay, bisexual, transgender and intersex persons (Uruguay); A/HRC/36/4 - Para. 118

Rights of Indigenous Peoples

During the 2017 UPR, the state supported recommendations to adopt legal measures to guarantee Indigenous peoples' protection,¹² to ensure an effective consultation process with them,¹³ and to uphold respect for the principles in the United Nations Declaration on the Rights of Indigenous Peoples.¹⁴

On June 18, 2020, Waorani Indigenous communities successfully sued the government for inaction on Covid-19. A judge ordered the Ministry of Health to send medical personnel and equipment, to respond to an outbreak. In July of this year, 126 Waoranis received vaccinations.

In August 2021 the Constitutional Court ruled against pretrial detention of members of uncontacted Indigenous tribes—and against pretrial detention of members of recently contacted tribes without prior engagement in appropriate inter-cultural dialogue, including about alternatives to detention.

Indigenous peoples' rights to possess and control the lands they have traditionally occupied and consultation regarding resources and projects on them are not fully protected, human rights organizations and community leaders report. Several communities have filed complaints seeking protection for ancestral lands.

In January 2022, the Constitutional Court [ruled](#) on recognizing, for the first time, the right of Indigenous communities to have the final decision over oil, mining and other extractive projects that affect their lands.

¹² 118.150 Strengthen the measures Ecuador has taken to address the needs of indigenous peoples (Côte d'Ivoire); A/HRC/36/4 - Para. 118; 118.155 Take adequate measures to guarantee the protection of isolated indigenous peoples, including the respect for intangible zones (Norway); A/HRC/36/4 - Para. 118

¹³ 118.151 Continue efforts to establish effective consultation processes with communities in accordance with international standards with regard to any project that affects the territory or livelihoods of indigenous people (El Salvador); Further strengthen consultations with indigenous populations to fulfil their economic, social and cultural rights (Republic of Korea); Develop transparent procedures for prior consultations with indigenous peoples on the use of indigenous lands (Sierra Leone); Establish effective consultation processes with the indigenous peoples and communities concerned for any project that might affect their territory or livelihoods (Estonia); Institutionalize the right to consultation of indigenous peoples and involve civil society and indigenous groups in the elaboration of a functioning consultation mechanism according to the country's commitments under the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) (Norway); Promote the active participation of indigenous people in the decision-making process on issues concerning them, especially regarding land and territories (Peru); A/HRC/36/4 - Para. 118; 118.152 Ensure the effective holding of prior, free and informed consultations with indigenous groups on policies that affect their way of life or culture (Mexico); A/HRC/36/4 - Para. 118

¹⁴ 118.153 With the participation of indigenous persons, communities and their respective organizations, adopt a legal framework that ensures respect for the principles in the United Nations Declaration on the Rights of Indigenous Peoples (Canada); A/HRC/36/4 - Para. 118

Recommendations

- Protect the rights of Indigenous communities to possession and control of ancestral lands and consultation in accordance with international human rights standards and the Constitutional Court ruling of January 2022.