

Republic of Ecuador

**Joint Submission to the UN Universal
Periodic Review – Consolidated Version
Session of the UPR Working Group
November 2022**





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1. BACKGROUND

1.1 FUNDAMEDIOS and the coalition of civil society organizations coordinated the presentation of this institutional report on selected topics, which are based on institutional studies. This Report examines Ecuador's compliance with its international human rights obligations, in the creation and maintenance of safe and respectful environments for civil society since the last UPR delivered on September 22, 2016, to the present.

1.2 During the 3rd cycle of the UPR, the Government of Ecuador received 24 recommendations related to freedom of expression, freedom of association and freedom of thought, conscience and religion. Of these, 14 were accepted and 10 were noted. An evaluation of the performance of public policies, legal sources and human rights documentation that were addressed, demonstrates that the Government did not implement most of the recommendations it received. Violations of human rights related to the rights to life, freedom of expression, freedom of sexual choice, freedom to human mobility, to a life free of violence and corruption, among others continue to occur.

2. DEMOCRACY, THE CORE OF THE ANALYSIS



2.1 The general social crisis currently affecting Ecuador forces us to redefine democracy, politics, the freedom of expression and human rights.

This is not an easy task nor a simple equation. The democracy and democracy's agenda building are permanent tasks and, in order for democracy to succeed, we have to project it towards the future, in an idea of modernity.

2.2 Ecuadorian society has become more complex and the old issues and demands are accompanied by new problems in the context of ongoing globalization. And it has not yet been possible to measure the impact and what is in store for society in the post-pandemic period. As social and political organizations of the new realities, economy, employment and, fundamentally, of how to face the growing inequality, it is necessary to be effective in order to guarantee human

rights, that policy that revalues life, the common good, the liberal/republican spirit of politics and rights, resignifying them from the new complexities, now made visible in a society in constant transformation.

2.3 The focus of this report is its belief in democracy as both a means and an end, based on citizenship and the conformation and belonging to a society of equals to which it is necessary to give answers through the common good.



3. NATIONAL SITUATION REGARDING THE EPU



3.1 In addition to the social, economic and political crisis, the health crisis and the emergence of a generalized feeling of uncertainty and distrust that are undermining the

ongoing democratic process, has been added. The objective and subjective living conditions of its citizens have deteriorated and have led to an increase in individualism that affects the valuation of democracy, the sense of belonging and a distancing from collective solutions.

3.2 In general, not all rights are being practiced, but at the same time, new demands are being expressed and new deficits are emerging in the exercise of those rights, as expressed by several national and international reports. The rights agenda has expanded or many of them have become more visible, due to the impact of inequalities, social violence, organized crime, the impact of drug trafficking, post-truth, deinsti-

tutionalization, disinformation, social distrust, the migratory crisis, among others. The pandemic has increased individualization, disresponsibility towards the public and collective action.

3.3 Democracy has shown resilience to the pandemic, as has society despite distrust and social polarization. Lives, social coexistence, minimum security and jobs were lost despite the efforts of governments and multilateral organizations to contain COVID-19. The State and society have been weakened and the institutions do not fulfill their objectives of formulating and executing public policies, or do so in a dispersed and weak manner.

3.4 The current general social crisis has revealed new facets of human rights violations. It is a moment of resignifications based on new forms of politics and the (post) pandemic. Society and demands have changed. Progress is not linear either

4. THE VISIBILITY OF OTHER RIGHTS

4.1 Most human rights are universally and nationally recognized in the respective legislations. They are part of the national and international agenda. But many are not expressed in public policies that allow them to be addressed and overcome over time, so they are permanently violated or scarcely addressed. The rights that have been violated and addressed in this report have been made invisible by the State and also by society. These violations have been naturalized because they are women, missing persons, persons deprived of their liberty, people in a situation of human mobility, those who have opted for sexuality outside

of the male/female dichotomy, among others. To sum up, these are social groups that are trying to overcome/break the barriers established by the instituted social order.

4.2 The violated rights addressed are considered and have remained in people's private space and have not been part of the public agenda. There are no technical capacities to address these situations and policies implemented. This is an expression of the absence of political will among state actors, especially governmental and judicial ones.

5. OTHER RIGHTS

5.1 The violation of certain universal human rights is related to those that affect all sectors of society, but differentially when it comes to introducing the categories of class, generational, gender, sexual orientation and nationality, to name a few. Discrimination exists in all societies regardless of their level of development, social class, ethnic origin, age, ideological and educational levels.

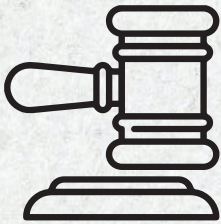
5.2 The human rights addressed in this report are related to the right to information, to non-violence, to non-discrimination on the basis of sexual orientation, the right to human mobility, non-surveillance, the right

to life and against enforced disappearance, and respect for the rights of persons deprived of their liberty.

5.3 From the following point, the document examines Ecuador's compliance with its international human rights obligations.



6. FREEDOM OF INFORMATION



6.1. Between July and November 2018, the IACHR's Special Monitoring Team (ESE) conducted two official visits to Ecuador and recommended the respect and guaranteeing the full exercise of the rights to protest, freedom of expression, peaceful assembly and political participation of the population, with emphasis on the principle of the progressive use of force and the promotion of dialogue.

6.2 During the 3rd cycle of the UPR, the Government of Ecuador received 24 recommendations related to: freedom of expression, freedom of association and freedom of thought, conscience and religion. Between 2017 and January 2022, there have been 1151 aggressions against journalists, citizens and media outlets that violated the rights of free expression, press and access to information. The highest numbers of recorded alerts occurred in 2017 and 2021.

6.3 Former President Lenín Moreno, derogated on October 23, 2017 Presidential

Order number 16 and 739, which limited freedom of association. Also in response to the murders of the journalists of El Comercio, on April 29, 2019, the Interinstitutional Committee was created to generate public policy and specific actions that guarantee the life, integrity, freedom and security of those who are at risk because of their activities in journalism.

There was a standstill in the initiative. On August 11, 2020, the Committee was reactivated. Among the agreements was the integration of a delegate from the Attorney General's Office and the Judiciary Council and, if necessary, police intervention to provide protection and accompaniment. These actions were not completed. In December 2021 under Guillermo Lasso's government, the Committee was reactivated. This initiative has not yet been expressed in concrete actions.

6.4 The political will of current governments has not been sufficient to design and plan strategies and protocols for the protection of journalists and the media. The aggressions

and attacks continue in impunity. The type of aggressor since 2017 has the State as the main protagonist. The highest peak was in 2017 and 2021.

6.5 Despite this, in December 2020, Ecuador became the first country in the world to ratify the 27 international conventions endorsed by the United Nations in the framework of Human Rights. This means that its obligations have a wide range, such as strengthening the coordination of international technical support for investigative and judicial activities, declassification of information for investigative processes, implementation of mechanisms of integral reparation, establishment of an Institutional Committee for the Protection of Journalists have been some of the commitments suggested to the State.

6.6 On February 20, 2019, the reforms to the Organic Law of Communication, LOC were approved by the National Assembly. On July 31, 2019, the Superintendence of Information and Communication (Supercom) was eliminated. On December 10, 2020, the National Assembly, approved the report of the second debate of the draft reforms to the LOC and it was determined that communication is a Human Right and not a public service. The corresponding regulations are still pending.

6.7 President Guillermo Lasso's initiative emphasizes self-regulation and leaves behind a model of excessive regulation that caused censorship, with a new Law of Access to Public Information that aims to give way to a new legislation in line with digital government, open government, and open data management.

7. INFRINGEMENT OF CITIZENS' RIGHTS THROUGH VIDEO SURVEILLANCE IN ECUADOR

7.1 On October 7, 2021, the UN Human Rights Council adopted Resolution 48/4 on the Right to Privacy in the Digital Environment. It calls on member states to ensure that rights are not violated by artificial intelligence.

7.2 According to Fundamedios, Ecuador does not currently have specific legislation to protect citizens' rights in the face of video surveillance; the Organic Law for the Protection of Personal Data, approved in May 2021, does not mention the limits of video surveillance, nor does it refer to the limits of video surveillance cameras. Nor does

contemplates scenarios for the implementation of artificial intelligence and facial recognition. The Ecuadorian State does not comply with international standards that recommend taking effective measures to prevent the retention, processing and illegal use of personal data stored by authorities



8. STATE OF THE SITUATION OF VIOLENCE AGAINST WOMEN IN ECUADOR



8.1 Gender violence is one of the most important public health problems. The rates of violence against women in Ecuador have not decreased. On the contrary, they have

increased. Physical, psychological, sexual and patrimonial violence in all social relations of women is a reality. In Ecuador, 60.6% of women had experienced some type of violence, with no major differences between urban areas and rural areas. By 2019, the National Survey of Family Relations and Gender Violence against Women revealed that 65 out of every 100 women had suffered a type of violence at some point in their lives, and of any type. An analysis of the situation shows that 5,785.295 million women were victims of violence, and Afro-Ecuadorian and indigenous women were the most affected (INEC, 2019).

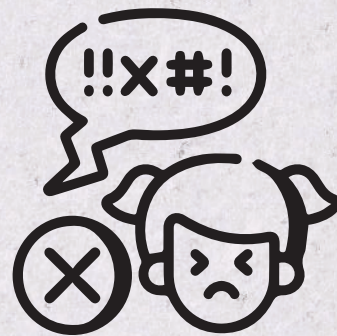
8.2 The year 2021 was the most violent year for women and girls since femicide was typified in Ecuador. It is the second country with the highest number of total femicides in Latin America and the Caribbean in the context of the pandemic (Source: Mundo Sur).

In 2021, one femicide, transfeminicide or violent death of women is registered every 44 hours, i.e., one every 1.8 days. There are 172 women and girls violently murdered for gender-related reasons in Ecuador from January 1 to November 15, 2021. The figure includes 103 femicides (60.4%), 7 transfemicides (4.4%), and 62 violent deaths of women by organized crime, which have a femicide and gender component. Eleven victims were girls and adolescents under 18 years old, five of them were between 1 and 4 years old.

8.3 From 2014 to the present, there have been 1,022 femicides, transfemicides and violent deaths of women.

8.4 The Ecuadorian State is in debt with women and girls, since their right to life is violated. It is also in debt with the orphaned sons and daughters who were left without mothers due to femicide, who in 99% of the cases are left without the integral reparation they deserve, in 2021 alone. 161 children and adolescents are in a situation of orphanhood. Access to financial help requires an enforceable sentence for the crimes committed but the process is delayed. The requirements for accessing the financial help are: an enforceable sentence; proof of extreme poverty; and that the legal guardian lives with the orphans. Only 13 orphans received financial help in 2019. The state's responses are punctual. It is responsible for the crime, due to its inaction in relation to prevention strategies and change of socio-cultural patterns and disinformation. The COVID19 pandemic was an aggravating factor in the escalation of violence.

8.5 Ecuador has national and international legislation, but the deaths of women and girls, rape and teenage pregnancies continue.



9. ALTERNATIVE REPORT ON THE HUMAN RIGHTS SITUATION IN ECUADOR (2016-2021) WITH RESPECT TO MISSING PERSONS



9.1 This report shows the obstacles faced by the families and friends of missing persons in Ecuador in the struggle to find them alive, the demand of their rights to truth, memory, justice and reparation, against a State that does not respond effectively or in a timely manner to the needs and requirements of the direct and indirect victims. responds effectively and timely to the needs and requirements of direct and indirect victims. Among structural obstacles are the lack of enforcement of current legislation, insufficient secondary legislation, specialized protocols for priority attention groups in the specialized search for missing persons, as well as the lack of public policies.

9.2 Ecuador has no official statistics on enforced disappearances. The INREDH Foundation published an article on the 10th anniversary of the Truth Commission's formation.

9.3 Prior to 2019, there was no legal system to address the problem. Since 2012 and due to the struggle of family members, national and international advocacy, and civil society organizations, the crime of involuntary disappearance was typified in the Organic Integral Penal Code (COIP) which entered into force in June 2020, and which establishes it as an autonomous crime (art. 163.1). and allows for the accumulation of evidence to prosecute the case, overcoming the "without a body, there is no crime". However, until this day no case has been prosecuted under this type of crime.

9.4 In December 2019, the Organic Law on Action in Cases of Missing and Lost Persons

was also approved and published in the official registry in January 2020. More than a year of implementation, the functioning of the SNBPDE -established by the Law- has been ineffective and the legal provisions have not been applied.

9.5 In Ecuador, there are about 2,000 missing persons at the moment, without taking into account the existing underreporting. Furthermore, the figures and statistics are contradictory. According to DINASED, in 2017, there were 10,869 and Fiscalía indicated that there were 10,461 missing persons. Currently, the provinces with the highest rate of disappearances are Guayas with 17%; Manabí with 14%; Pichincha and Santo Domingo de los Tsáchilas with 13%; followed by Los Ríos with 7%; Sucumbíos and Imbabura with 6%. Sixty-two percent of the disappearances correspond to women and 38% to men according to the report of the Ministry of Government".

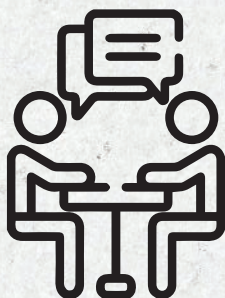
9.6 There is no specialization in the attention to victims and resources destined to the institutions that are part of the Specialized Unit of the National Search for Missing and Disappeared Persons System (UNSPRP). Family members endure indolent responses when reviewing the files of their relatives in state entities. In doing so, it revictimizes the families and distances them from the institutionality.

9.7 The disappearance of women is another form of violence. In patriarchal society and the patriarchal State, being a woman is a risk factor despite national regulations and international instruments such as the Belem do Para Convention or having an Organic Law for the Eradication of Violence against Women. There are also cases of missing children and adolescents.

9.8 The Law establishes that the search does not end as long as there is no certainty -especially by the family members- as to the whereabouts of the person or his remains. There is non-compliance with the Organic Law of Action in Cases of Disappeared and Missing Persons. The disappearance not only affects the victim, but also extends to third parties.



10. DIVERSE DIALOGUE CONTRIBUTIONS ON THE SITUATION OF LGBTIQ+ PEOPLE IN HUMAN MOBILITY IN ECUADOR IN THE PERIOD FROM 2018 TO 2021



10.1 Diálogo Diverso, and the project " My Home Away from Home" (hereinafter MHAH), is instituted as the first comprehensive, harmonious and pluralistic approach to the LGBTIQ+ migrant and refugee population in Ecuador. It has appropriate protocols, legal, medical and psychosocial care, informative talks to sensitize them on sexual and gender diversity.

10.2 The social scenario has been hit by the pandemic concatenated to COVID-19. There is a lack of information that transversally addresses the human rights of the LGBTIQ+ population and human mobility. Rights for LGBTIQ+ people are recognized in the Constitution, but they are not exercised. The Ecuadorian State has not conducted research that describes the reality of the LGBTIQ+ population, given that after the "Case Study on Living Conditions, social inclusion and compliance with human rights of the LGBTI population in Ecuador" of 2013, these data have not been updated. In it, it warned of the difficulties in access to rights such as education and work. The rights established in the Ecuadorian Consti-

tution are inclusive for the LGBTI community, but there are practices that encouraged discrimination; based on social prejudices. (Fundación Ecuatoriana Equidad 2013, 67-68).

10.3 Venezuela's socioeconomic crisis has driven the human mobility of its citizens in search of better living conditions. In Ecuador, as of November 2021, there were 508,935 people from Venezuela.

10.4 In Ecuador, there are few quantitative or qualitative studies that provide official information on the status and/or exercise of human rights of LGBTIQ+ persons. From civil society organizations, and the International Organization for Migration (hereinafter IOM), point out that response to the population in a situation of human mobility is biased and standardized.

10.5 Behind xenophobic behaviors and social exclusion based on gender-sex identity, processes of segregation that fragment the social fabric are reproduced, of both the host community and migrant and refugee networks. In terms of social interaction, the lack of opportunities limits the possibilities of restructuring social and economic life, these restrictions contradict the legal princi-

ples regarding the elimination of all forms of discrimination guaranteed in the Constitution. Faced with a hostile scenario, they hide their sexual preference and identity and make invisible the abuses to which they are subjected. They do not official complaints of rights violations due to prejudice and social stigmatization.

10.6 The significance of the role of civil society organizations is a plausible option in the face of state neglect. Despite the creation of the Undersecretariat for Diversities.

10.7 Another circumstance has to do with the rights of LGBTIQ+ children and adolescents. This group has been invisibilized in all fields and does not have a legal framework that guarantees its protection, similar to that of lesbian, bisexual and transgender women. This issue is not mentioned in the Ecuador chapter of the Shadow Report. It is essential to deepen the processes of gender-based violence (GBV) and responses to LGBTIphobia. These phenomena depend on specific guidelines. They cannot be treated from a homogeneous or only from a gender perspective this differs and deepens the harassment of LGBTIQ+ people.

11. ECUADOR'S PERFORMANCE IN THE FIGHT AGAINST CORRUPTION IN THE PERIOD 2017 - 2021. CORRUPTION CONTEXT IN ECUADOR AND ANALYSIS OF THE RECOMMENDATIONS

11.1 Corruption is present in all societies and Ecuador is no exception to this generalization. There is a lack of international attention regarding the phenomenon of corruption in Ecuador, although many of these acts have been denounced by countries such as the United States and Brazil. It is slowly becoming part of the international agenda.

11.2 The number of UPR recommendations for the year 2017 out of 182 recommendations, 22 - i.e. or 12.09% - refer to public policies to reduce the phenomenon of corruption- and does not reflect Ecuador's lag in public policies to fight corruption, nor the impact that corruption has on development of human rights in the country. In the UPR the recommendations related to use of force by the State include anti-corruption measures, (Recommendations 135.24, 135.28 and 135.29) which are not necessarily related. Corruption in Ecuador is linked to the loss of resources by the State, which cannot be destined to strategic sectors (Recommendations 135.24, 135.28 and 135.29). of the population to guarantee the

fulfillment of the rights recognized in the constitution and legislation of the country.

11.3 In the latest Corruption Perceptions Index, Ecuador ranks 92nd out of 180 countries, with a score of 39/100, which places it below the Latin American average (which ranks second to last in the world in terms of worst anti-corruption performance). In the period 2007-2019 corruption cost the treasury a total amount of \$ 67,729.4 million. This is equivalent to the total Ecuadorian public debt. This amount is equivalent to 66.1% of the total GDP for the country by 2021.

11.4 Ecuador has not shown signs of improvement in the fight against corruption. Specifically, there was evidence of shortcomings in the public authorities in charge of overseeing the state, such as the Comptroller's Office, which was involved in irregularities scandals, of irregularities committed by the Comptroller General at the time, Mr. Carlos Polit and his successor.

11.5 In the 2017 UPR, recommendations 7.36 through 7.47 refer to the quality of the judicial system which Ecuador considered to be in the process of implementation. In 2021 - during the removal of the Mayor of Quito Jorge Yunda - an irregular system in the drawing of lots for assigned courts was evidenced.

11.6 Another recommendation emphasized respect for the right to vote. Ecuador's electoral administration of Ecuador has been involved in national and provincial scandals for acts of corruption and electoral fraud on the part of its authorities without the institution having issued an investigation on the matter and the Attorney General's Office has not processed the complaint filed.

11.7 In comparative law, citizens have been allowed to take an active part in judicial proceedings related to corruption. It has had positive results in the fight against corruption, although in Ecuador the right to free association is severely restricted and disrespected when it comes to anti-corruption entities. Corruption impoverishes States and, above all, puts the protection of human rights at risk. The current government has set up the Anti-Corruption Technical Secretariat, attached to the Presidency of the Republic.



12. MIGRATORY REGULARIZATION: A GATEWAY TO HUMAN RIGHTS



12.1 International migration has become one of the most relevant facts for Ecuador. In Venezuela, the general social crisis expelled millions of its population. Ecuador is the fourth South American country with more than five million Venezuelans having left their country and it is a displacement crisis in the world.

12.2 As of December 2022, the number of Venezuelan immigrants has risen to more than 515,835 people. This figure includes those who entered regularly and those who would have entered through irregular passages. Of these, 178,246 people have a residence permit -temporary or permanent- and 29,078 Venezuelans have an asylum or refugee application with the Ministry of Foreign Affairs and Human Mobility. They are not under international protection, which places them between regularity and

irregularity. Most of them are in incomplete migratory status. Without valid travel documents or legal residency permits, without access to rights, without work or in begging and/or labor exploitation.

12.3 Expired identity documents were accepted as valid. But those Venezuelans without travel documents or apostilled criminal records are not eligible for immigration regularization, unless they are granted refugee status by the Ecuadorian government.

12.4 Ecuador is a signatory to international conventions such as the Convention Relating to the Status of Refugees in 1951, the Protocol Relating to the Status of Refugees in 1967 and, consequently, the Cartagena Declaration on Refugees in 1984, which considers new dimensions for the term refugee. The 2008 Constitution of the Republic of Ecuador guarantees in its art. 40 the right of persons to migrate. "No human being shall be identified or consid-

ered as illegal because of his or her migratory status". Article 41 establishes that the rights of asylum and refuge are recognized. The Organic Law on Human Mobility in 2017 was a milestone. It is proposed to reform -inadmission and deportation- this legal system as many could be inadmitted or deported. Ecuador is no longer considered a country of transit but rather a host country.

12.5 The Permanent Committee for the Defense of Human Rights (CDH), with the support of the German Technical Cooperation (GIZ), collected information in Guayaquil from people of Venezuelan origin: the age of the participants ranged between 23 and 44 years, with a male participation of 58.14% compared to 41.8% of female respondents. The level of schooling of the participants is at the end of high school with 46.51%, compared to 39.54% who said they have only primary education and 13.95% have a university degree.

12.6 Migration reflects how they arrived in Ecuador: scarce economic resources and with travel documents in the process of expiring. 74.42% of citizens reported entering through an official border crossing and only 25.58% through an irregular one. Of

those surveyed, 79.09% stated that they did not have a regular migratory status and only 10% claimed to have a residence permit, either temporary or permanent. The remaining 10% preferred not to mention their migratory status. The reasons for which they emigrated: political crisis, humanitarian crisis and economic crisis. Migration occurred in family groups. 30.23% arrived in Ecuador accompanied by their children and, on occasion, another family member such as a partner or spouse. 41.86% of these citizens arrived alone, in search of work opportunities and better living conditions. The remainder indicated having arrived with another family member such as a father, brother, sister, brother-in-law, brother-in-law or cousins.

12.7 Due to the absence of a legal document, they are subject to labor exploitation and discrimination. The Venezuelan exodus boosts Ecuador's economy and provides better living conditions for their families. Regularization helps to identify the conditions in which they find themselves; it allows the identification of people belonging to priority groups and facilitates the development of their life projects, generating benefits in their host communities.

13. STATE OF THE NATIONAL SOCIAL REHABILITATION SYSTEM: FIGURES AND RECENT DEVELOPMENTS. INITIATIVES FOR REINSERTION FOUNDATION (IR)

13.1 The protection and guarantee of rights, as well as the comprehensive rehabilitation for the reintegration of persons deprived of liberty, are constitutional purposes of the National Rehabilitation System, in accordance with the mandates of international instruments, of direct and immediate application. Ecuador appears to be a nation that respects and is in permanent dialogue with the Convention against

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, the respective Subcommittee on Prevention of the United Nations, and the National Mechanism for the Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment (NMPT) which is part of the National Human Rights Institution (NHRI), it is noted that there is a contradiction between

constitutional rights and guarantees, public policies, and the reality of the penitentiary system.

13.2 There is uncontrolled systemic violence; the Ecuadorian State does not have the capacity to manage prisons, in February 2022, the Executive approves a Public Policy of Social Rehabilitation and decrees a commutation of prison sentences, but by March 2022 there is no official pronouncement or responsibilities and sanctions for the massacres and more than 310 deaths inside the prisons between 2019 and 2021.

13.3 Regarding the profile of persons deprived of their liberty, 93.46% are men and 6.54% are women; 44.24% are between 18 and 30 years of age, and most of these persons are re-offenders and do not have family support. In addition, only 71% have a basic education, most of them come from contexts characterized by high levels of violence, poverty or extreme poverty, and drug use from an early age. Regarding the criminal conduct for which people are deprived of liberty, the State reported that the five crimes for which people are deprived of their liberty are: drug-related crimes (28.19%), crimes against property (26.17%), crimes against sexual and reproductive integrity (16.18%), crimes against the inviolability of life (13.47%), and crimes against persons (4.36%).

13.4 The prevention of violence [and corruption] in places of deprivation of liberty is closely linked to the eradication of overcrowding, the allocation of sufficient trained and suitable personnel and the construction of [a] culture of peace, among other [issues] necessary to ensure that deprivation of liberty does not exceed the inevitable level of suffering inherent to this condition these facts are a consequence of the inadequacy of public policies [...]. State action cannot be reduced [...] to quelling riots and punishing those who commit violent acts inside prisons [...] but to maintain permanent control. There is a misunderstood relationship between security and violence provoked by governments, institutions and the media, which is leading society to minimize or ignore the lack of attention and resources assigned by the State to the attention of the SNRS.

13.5 Finally, and given that it has been recognized at all levels that the structural and multidimensional nature of the SNRS crisis must be addressed through the enactment of a "comprehensive, adequately financed, that provides effective [...] solutions [whose formulation includes] the participation of state institutions and members of civil society, in February 2022, the DOTRS approved the Public Policy for Social Rehabilitation 2022-2025.

