

Immigration Detention in Ecuador

Global Detention Project

May 2015

The Global Detention Project (GDP) is a non-profit research centre based in Geneva, Switzerland, that investigates the use of detention in response to global migration. The GDP's aims include: (1) providing researchers, advocates, and journalists with a measurable and regularly updated baseline for analysing the growth and evolution of detention practices and policies; (2) facilitating accountability and transparency in the treatment of detainees; and (3) encouraging scholarship in this field of immigration and refugee studies.

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**Immigration Detention in Ecuador
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Introduction 3

Detention policy..... 6

Detention infrastructure13

List of Detention Sites17

Map of Detention Sites18

Country links19

Introduction

Ecuador has had a turbulent recent history with respect to the movement of people across its borders. Since the 1980s, the country has experienced two major waves of emigration to Europe and the United States, which have been spurred by economic crises. Up to two million Ecuadorians live abroad, representing approximately 15 percent of the country's population.¹

At the same time, conflict and poverty in neighbouring countries, as well as Ecuador's place in the larger global migration phenomenon, have helped make it an increasingly important destination and transit country for migrants and refugees. Between 2001 and 2013, the country's foreign-born population jumped from roughly 100,000 to 350,000.² Much of this surge has been linked to the conflict in nearby Colombia, which has forced tens of thousands of refugees across the border.

During the 1990s and early 2000s, the U.S. Coast Guard—using the now-closed U.S. military base in Manta, Ecuador, as an operations centre—intercepted thousands of migrants leaving Ecuadorian shores in smuggling vessels heading north to Central America and Mexico as part of a smuggling route to the United States. In some cases, the U.S. Navy torpedoed and sunk smuggling vessels offshore; in others, boats were towed into ports in Guatemala or Mexico, where migrants were detained by local authorities and then questioned by U.S. immigration officials.³ While most of the people detained in these U.S. operations were from Ecuador or other South American countries, there were reports of tens of thousands of Chinese and other “extra-continentals” transiting Ecuador, which raised concerns in neighbouring countries.⁴

Amidst this complex migratory situation, Ecuadorian President Rafael Correa has endeavoured to pursue an extremely liberal free-movement policy, which one writer characterizes as one of the “world's boldest contemporary efforts to reinvent human migration.”⁵ In 2008, the country adopted a new Constitution that provides “universal citizenship” (*ciudadania universal*) and explicitly promotes the rights of migrants. In article 416(6) the Constitution advocates for “the principle of universal citizenship, the free movement of all inhabitants of the planet, and the progressive extinction of the status of alien or foreigner as an element to transform the unequal relations between countries, especially those between North and South.” Article 40 recognizes the right to

¹ Jokisch, Brad D. “Ecuador: From Mass Emigration to Return Migration?” Migration Policy Institute. November 2014. <http://www.migrationpolicy.org/article/ecuador-mass-emigration-return-migration>.

² UN Department of Economic and Social Affairs (UNDESA). “International Migration 2013 Wall Chart.” <http://www.un.org/en/development/desa/population/publications/migration/migration-wallchart-2013.shtml>.

Jokisch, Brad D. “Ecuador: From Mass Emigration to Return Migration?” Migration Policy Institute. November 2014. <http://www.migrationpolicy.org/article/ecuador-mass-emigration-return-migration>.

³ Flynn, Michael. “What's the deal at Manta?” *Bulletin of the Atomic Scientists*, vol 61, no 1. 2005. http://www.globaldetentionproject.org/fileadmin/publications/Flynn_manta.pdf.

⁴ U.S. Embassy in Costa Rica. Confidential Cable from U.S. Embassy in San Jose, Costa, Rica, to U.S. Secretary of States, dated 2008-11-12. Released by Wikileaks. <https://www.wikileaks.org/cable/2008/11/08SANJOSE882.html>.

⁵ Wheeler, William. “How Not to Design a World Without Borders.” *The Atlantic*. 21 July 2014. <http://www.theatlantic.com/international/archive/2014/07/how-not-to-design-a-world-without-borders/374563/>.

migrate and provides that no one shall be considered illegal because of his or her migratory status.

The following year, in 2009, the U.S. military base in Manta was closed when the Correa government refused to renew the U.S. lease. The closure came after years of public outcry over the base, including for its role in migrant interdiction efforts.⁶

However, increasing internal and external pressures have spurred the Correa government to roll back some of its more progressive policies. In 2010, the government halted the free circulation of people from several countries in Asia and Africa, requiring them to get tourist visas for the first time since the adoption of the 2008 Constitution. Among the countries affected by this decision were Afghanistan, Bangladesh, Eritrea, Ethiopia, Kenya, Nepal, Nigeria, Pakistan, and Somalia. The decision followed closely on the heels of reports that the influx of South Asians into Ecuador had risen by more than 300 percent between 2008 and 2009. Describing the move, an Ecuadorian migration official said that it was a “humanitarian act aimed at preventing Ecuador from becoming a bridge [to third countries] used by people trafficking gangs.”⁷

Ecuador has also moved to restrict asylum seekers and refugees. As of 2013, the country’s refugee population numbered nearly 125,000 (although the government only recognized some 55,000 as refugees), making it the Latin American country with the second highest number of refugees (behind Venezuela, with roughly 200,000). The ratio of refugees per 1,000 inhabitants in Ecuador is 7.8, the eighteenth highest in the world.⁸

In 2012, Ecuador adopted Presidential Decree 1182, which narrowed the scope of who can be considered a refugee and has led to a significant decline in the country’s acceptance rate. According to one account, “Of the 16,952 asylum applications received by Ecuador in 2012, only 1,543 were accepted—a rate of 9.1 percent, which was considerably lower than the previous average acceptance rate of nearly 25 percent. In 2014, almost 15,000 cases were pending, and hundreds of new asylum applications are submitted each month.”⁹

Ecuador’s more restrictive migration environment has appeared to parallel stepped up detention and deportation efforts. During 2010-2011, for instance, authorities conducted two massive immigration control operations, one targeting Cuban and Colombian populations, and a second Pakistanis. Those arrested during these operations were detained in a number of facilities that were not designated by law or specifically

⁶ Benassi, Ricardo. “EE.UU. deja la base de Manta.” *BBC Mundo*. 18 September 2009.

http://www.bbc.co.uk/mundo/america_latina/2009/09/090917_0238_ecuador_manta_rb.shtml.

⁷ Mena Erazo, Paúl. “Ecuador pedirá visa a ciudadanos de nueve países de Asia y África.” *BBC Mundo*. 7 September 2010.

http://www.bbc.co.uk/mundo/america_latina/2010/09/100907_ecuador_inmigrantes_africa_asia visa rg.shtml.

⁸ UN High Commissioner for Refugees (UNHCR). *UNHCR Statistical Yearbook 2013*. 2014.

<http://www.unhcr.org/54cf9bd69.html>. UN High Commissioner for Refugees (UNHCR). *UNHCR Global Appeal 2014-2015 – Ecuador*. 2013. <http://www.unhcr.org/528a0a370.html>

⁹ Jokisch, Brad D. “Ecuador: From Mass Emigration to Return Migration?” Migration Policy Institute. November 2014. <http://www.migrationpolicy.org/article/ecuador-mass-emigration-return-migration>.

designed for this purpose, including police stations, former prisons, and ad hoc public institutions. According to some reports, among those deported were several asylum seekers and trafficking victims.¹⁰

In 2010, 2,662 non-citizens were placed in immigration detention, compared to 1,338 in 2008. According to statistics from the migration police, in 2011 724 people were deported, of whom 63 percent were Colombians and 22.5 percent Peruvians. These two nationalities together accounted for nearly 98 percent of all deportees during 2008-2010.¹¹

¹⁰ Benavides Llerena, Gina et al. *Migraciones y Derechos Humanos en la Región Andina. Una mirada desde la Sociedad Civil: Informe Regional*. Universidad Andina Simón Bolívar. June 2013.

¹¹ Ruesen Eva, Adriana Blanco and Karina Sarmiento (Asylum Access Ecuador). *Global Detention Project Questionnaire: Ecuador*. 15 October 2013. Arcentales Illescas, Javier. *LAS POLÍTICAS DE DEPORTACIÓN EN EL ECUADOR: ANALISIS DESDE UN ENFOQUE DE DERECHOS HUMANOS*. PROGRAMA ANDINO DE DERECHOS HUMANOS ESPECIALIZACIÓN SUPERIOR EN DERECHOS HUMANOS. 2012.

Detention policy

Key norms. Ecuador’s legal framework relevant to the entry and stay of non-citizens appears to contain numerous contradictions. The 2008 Constitution establishes an extremely progressive free-movement regime, as discussed previously in this report. In contrast, the country’s main piece of relevant legislation, the 1971 Migration Act (*Ley de Migración*)—which was codified in 2005 and most recently amended in 2012—provides a much more restrictive regime that lacks a human rights perspective and focuses on security and sovereignty.¹²

Also of relevance is the 2012 Regulation on the Application of the Right to Asylum (*Reglamento para aplicación en Ecuador del derecho de refugio*; also Presidential Decree 1182), which has provisions aimed at protecting asylum seekers from being penalized for irregular entry or stay. According to some observers, the provisions of the Migration Act contradict the non-penalisation clauses in the asylum regulation (see the section on “Asylum Seekers” below). The Regulation also spurred criticisms because it narrowed the definition of refugee, established more restrictive admissibility procedures, and imposed a 15-day limit to submit asylum application.¹³

Grounds for detention. The Migration Act does not explicitly list grounds providing for immigration detention. Rather, detention is linked to and triggered by deportation proceedings, which is similar to the detention framework in various other countries (including [Egypt](#), [Malta](#), and [Morocco](#)).

According to legal scholars, deportation grounds combined with “exclusion” grounds in the legislation make deportation (and thus detention) possible in a variety of different circumstances.¹⁴

The Migration Act provides that police officers of the Migration Service may arrest non-citizens if they appear to have violated any norms that can constitute grounds for deportation (Migration Act, article 20). The law provides four sets of grounds for deportation: 1) unauthorized entry; 2) subject to specific exclusion grounds (see below); 3) being convicted in Ecuador of a criminal offence; and 4) being a criminal suspect who cannot be tried in Ecuador for lack of territorial jurisdiction (Migration Act, article 19).

Grounds for exclusion include, inter alia: 1) previous deportation from Ecuador or another country for reasons that are not political; 2) invalid passport; 3) less than 18 years old, unless accompanied by a legal representative or traveling with guardian’s explicit authorization, authenticated before an Ecuadorian foreign service officer; 4)

¹² Arcenales Illescas, Javier. *LAS POLÍTICAS DE DEPORTACIÓN EN EL ECUADOR: ANALISIS DESDE UN ENFOQUE DE DERECHOS HUMANOS*. PROGRAMA ANDINO DE DERECHOS HUMANOS ESPECIALIZACIÓN SUPERIOR EN DERECHOS HUMANOS. 2012.

¹³ Human Rights Watch. *Letter to President Correa on Refugee Rights*. 20 June 2013 <http://www.hrw.org/news/2013/06/19/ecuador-letter>.

¹⁴ Arcenales Illescas, Javier. *LAS POLÍTICAS DE DEPORTACIÓN EN EL ECUADOR: ANALISIS DESDE UN ENFOQUE DE DERECHOS HUMANOS*. PROGRAMA ANDINO DE DERECHOS HUMANOS ESPECIALIZACIÓN SUPERIOR EN DERECHOS HUMANOS. 2012.

document fraud when seeking a visa; 6) having assisted in any way the unauthorized entry of another person; 7) suffering from diseases classified as severe, chronic, or infectious, such as tuberculosis, leprosy, or trachoma; and 8) chronic or acute psychosis or disability, except in cases where the person has adequate financial resources to not be a burden on the state (Migration Act, article 9). In addition, people can be excluded if they overstay a temporary visa, change migratory category (in practice this refers to migrants working without a proper visa), fail to register at the Foreigners' Register, among other grounds (Migration Act, articles 10 and 11).¹⁵

Some observers have noted that there is no provision aimed at preventing the detention or deportation of refugees, victims of torture or human trafficking, or non-citizens who have family links with Ecuadorians.¹⁶

There appears to be very little current information about the legal justifications most commonly cited when deciding to place a person in detention during deportation proceedings. However, a scholarly study published in 2008 found that at that time, pre-removal detention was ordered for three main reasons—because a person lacked adequate documents (31 percent); was working without a permit (22 percent); and/or had committed a petty crime or become a public nuisance (31 percent). The study noted the high number of cases in which “other reasons” (32.7 percent) were cited among the reasons. These “other reasons” were related to social problems and, according to the study, appeared to demonstrate that the government was at the time using immigration detention to treat situations that were not strictly related to immigration.¹⁷

Deportation measures appear to have first been adopted in 1869, when the government applied *extrañamiento* (removal) to non-citizens who committed acts threatening the country's internal and external security. The first laws concerning foreign nationals, adopted in 1886 and 1921, provided that foreigners could be expelled from the territory if they participated in civil dissent or committed morally offensive acts.¹⁸

Asylum seekers. Ecuador is one of the most important countries of refuge in the world, hosting tens of thousands of refugees from neighbouring Colombia. However, while the country's Constitution frames global migration in human rights terms, it has recently implemented measures aimed at restricting who qualifies as a refugee, as noted earlier in this report.

¹⁵ Arcentales Illescas, Javier. *LAS POLÍTICAS DE DEPORTACIÓN EN EL ECUADOR: ANALISIS DESDE UN ENFOQUE DE DERECHOS HUMANOS*. PROGRAMA ANDINO DE DERECHOS HUMANOS ESPECIALIZACIÓN SUPERIOR EN DERECHOS HUMANOS. 2012.

¹⁶ Arcentales Illescas, Javier. *LAS POLÍTICAS DE DEPORTACIÓN EN EL ECUADOR: ANALISIS DESDE UN ENFOQUE DE DERECHOS HUMANOS*. PROGRAMA ANDINO DE DERECHOS HUMANOS ESPECIALIZACIÓN SUPERIOR EN DERECHOS HUMANOS. 2012.

¹⁷ Benavides Llerena, Gina. *Procesos de deportación en Ecuador*. Programa Andino de Derechos Humanos (PADH). 2008. http://www.uasb.edu.ec/padh_contenido.php?pagpath=1&swpath=infb&cd_centro=5&ug=ig&cd=2023.

¹⁸ Benavides Llerena, Gina. *Procesos de deportación en Ecuador*. Programa Andino de Derechos Humanos (PADH). 2008. http://www.uasb.edu.ec/padh_contenido.php?pagpath=1&swpath=infb&cd_centro=5&ug=ig&cd=2023.

The Migration Act does not specifically prohibit or provide for the detention of asylum seekers. Article 15 states that Migration Service officers can provisionally admit foreigners applying for political asylum at ports of entry without subjecting them to exclusion grounds. The asylum seekers are to remain under surveillance at the port of entry until the Consular Department of the Ministry of External Relations resolves the case.

[Asylum Access Ecuador](#) claims this provision in the Migration Act contradicts the non-penalisation clause provided in the 2012 *Regulation on the Application of the Right to Asylum*.¹⁹ Modelled upon article 31(1) of the [1951 Convention relating to the Status of Refugees](#), article 12 of the 2012 asylum regulation establishes that no administrative sanctions are to be imposed for irregular entry or stay of persons in need of international protection coming directly from territory where their life, liberty, integrity, or security are threatened and when they present themselves to authorities within 15 days upon the arrival. In cases where administrative proceedings related to irregular entry or stay of a person claiming refugee status have already started, these proceedings are to be suspended until final decision is adopted. If refugee status is denied, criminal and/or administrative proceedings resume; if the refugee status is granted, these proceedings stop (Regulation on the application of the right to asylum, article 13).

According to the [International Detention Coalition](#), although asylum seekers are sometimes detained, penal sanctions for using false documents are not systematically applied.²⁰

Length of detention. As the Migration Act does not specifically provide grounds for detention it also does not set a maximum permissible length of detention. Non-citizens are apparently intended to remain in detention until deportation is carried out or the person is released. If a deportation order cannot be completed, a criminal judge is to replace detention with alternative measures, which are set out in the Code of Criminal Procedure (see below “Non-custodial measures”).

If a person cannot be deported within three years of an order being made, the person is to be regularised (Migration Act, article 31). However, according to [Asylum Access Ecuador](#), there are no specific procedures applying in such circumstances and no cases of persons detained for three years have been reported.²¹

A source in Ecuador told the GDP that in practice detention takes up to six months.²² According to the IDC, Colombians, who are often detained in the areas close to the

¹⁹ Ruesen Eva, Adriana Blanco and Karina Sarmiento (Asylum Access Ecuador). *Global Detention Project Questionnaire: Ecuador*. 15 October 2013.

²⁰ International Detention Coalition (IDC). *INFORME REGIONAL DETENCIÓN MIGRATORIA Y ALTERNATIVAS A LA DETENCIÓN EN LAS AMÉRICAS*. October 2014.

²¹ Ruesen Eva, Adriana Blanco and Karina Sarmiento (Asylum Access Ecuador). *Global Detention Project Questionnaire: Ecuador*. 15 October 2013.

²² Undisclosed source. Email communication between members of civil society organizations and Izabella Majcher (Global Detention Project). May 2015.

border, are detained for up to five days generally. People from other continents tend to be detained for between 20 days and seven months.²³

Procedural guarantees. Because detention is intrinsically linked to deportation, detention-related procedural protections stem from the rules governing deportation proceedings. Most of the safeguards are provided in the Code of Criminal Procedure, which applies to immigration detention and deportation proceedings.

When a non-citizen is arrested for the purpose of his deportation, police officers of the Migration Service shall bring him immediately before the judge of contraventions of the province where the arrest was made (Migration Act, article 20). This is to take place within 24 hours of the arrest. Pursuant to articles 164-166 of the Code of Criminal Procedure, everyone who is arrested shall know the reasons for detention, as well as the identity of officers who carry out the arrest and questioning. However, there have reportedly been instances where migrants were detained without being informed about the reasons for their detention.²⁴

Before starting deportation proceedings, the judge of contraventions requests a criminal judge to apply preventive detention in line with the Code of Criminal Procedure (Migration Act, article 24). Under article 172 of the Code, the detainee can appeal against preventive detention to a superior authority. However, observers have criticized this provision for not being clear and argued that in practice the review is more often than not carried out by the same judge who imposed deprivation of liberty.²⁵

Within 24 hours of the deportation proceedings, the judge of contraventions is to announce a deportation hearing to take place within 24 hours. Civil society organizations have found that 48 hours is not sufficient time to prepare one's defence, which violates the right to defence.²⁶ In 2008, observers noted that hearings took place only in 89 percent of cases. Moreover, when a deportation concerned a group of migrants, proceedings were conducted collectively.²⁷

Deportation hearings are to be attended by the prosecutor, the person subject to the sanction, and a counsel appointed by the state, if the detainee does not already have one (Migration Act, article 25). Ecuador and Argentina are among the few Latin American countries that offer legal representation to persons who do not have means to

²³ International Detention Coalition (IDC). *INFORME REGIONAL DETENCIÓN MIGRATORIA Y ALTERNATIVAS A LA DETENCIÓN EN LAS AMÉRICAS*. October 2014.

²⁴ Ruesen Eva, Adriana Blanco and Karina Sarmiento (Asylum Access Ecuador). *Global Detention Project Questionnaire: Ecuador*. 15 October 2013.

²⁵ Blanco, Adriana (Asylum Access Ecuador). *Additional Information to the Global Detention Project Questionnaire: Ecuador*. 20 December 2013.

²⁶ Ruesen Eva, Adriana Blanco and Karina Sarmiento (Asylum Access Ecuador). *Global Detention Project Questionnaire: Ecuador*. 15 October 2013.

²⁷ Benavides Llerena, Gina. *Procesos de deportación en Ecuador*. Programa Andino de Derechos Humanos (PADH). 2008. http://www.uasb.edu.ec/padh_contenido.php?pagpath=1&swpath=inf&cd_centro=5&ug=ig&cd=2023.

afford it.²⁸ However, reportedly, often detainees meet the public legal counsel only at the hearing, although they ask for the meeting beforehand.²⁹ In 2008, only in 12 percent of the cases reviewed by scholars, the counsel did formulate arguments in favour of the deportee, relying on his visa or family links. In 2007, there were even cases reported where state-appointed counsel did not attend the hearing and signed the documents certifying his presence a posteriori.³⁰

During his July 2014 visit to the Carrion Hotel detention centre, the Ombudsman received complaints from the majority of detainees about lack of information about deportation proceedings applicable to them or legal aid. Some detainees were supposedly not informed about hearings or informed too late to prepare the hearing.³¹

Although laid down in article 13 of the Code of the Criminal Procedure, the state does not provide interpretation and translation such services. The civil society organizations reported cases where migrants who did not speak Spanish were not afforded interpreters.³²

Within 48 hours following the deportation hearing, the judge of contraventions should decide whether or not to order deportation. If he refuses deportation, the Interior Ministry must still validate this decision. If the Ministry agrees with the judge's decision, the detainee is released. In the contrary case, a deportation order is issued (Migration Act, article 30). In 2008, some scholars noted that in 68 percent of the cases they reviewed deportation was ordered, while in 28 percent it was denied.³³

The Migration Act provides for a possibility to appeal a deportation order, however not directly decision regarding detention (Migration Act, article 30). People slated for deportation frequently stay in detention until deportation, without review of the legality or the length of detention.³⁴ In 2008, some scholars noted that out of 62 decisions to deport that they reviewed, none was challenged by the deportee. The Migration Act does not

²⁸ International Detention Coalition (IDC). *INFORME REGIONAL DETENCIÓN MIGRATORIA Y ALTERNATIVAS A LA DETENCIÓN EN LAS AMÉRICAS*. October 2014.

²⁹ Ruesen Eva, Adriana Blanco and Karina Sarmiento (Asylum Access Ecuador). *Global Detention Project Questionnaire: Ecuador*. 15 October 2013.

³⁰ Benavides Llerena, Gina. *Procesos de deportación en Ecuador*. Programa Andino de Derechos Humanos (PADH). 2008.

³¹ Dirección Nacional del Mecanismo de Prevención de la Tortura, Tratos Crueles y Degradantes (MNPT). *INFORME DE LA VISITA PORMENORIZADA AL CENTRO DE ACOGIDA TEMPORAL PARA CIUDADANOS/AS EXTRANJEROS/AS EN PROCESO DE DEPORTACIÓN "HOTEL CARRIÓN."* July 2014.

³² Benavides Llerena, Gina. *Procesos de deportación en Ecuador*. Programa Andino de Derechos Humanos (PADH). 2008. Ruesen Eva, Adriana Blanco and Karina Sarmiento (Asylum Access Ecuador). *Global Detention Project Questionnaire: Ecuador*. 15 October 2013.

³³ Benavides Llerena, Gina. *Procesos de deportación en Ecuador*. Programa Andino de Derechos Humanos (PADH). 2008.

³⁴ International Detention Coalition (IDC). *INFORME REGIONAL DETENCIÓN MIGRATORIA Y ALTERNATIVAS A LA DETENCIÓN EN LAS AMÉRICAS*. October 2014.

provide for compensation for arbitrary detention.³⁵

In 2010, the UN [Committee on Migrant Workers](#) expressed concern regarding the number of reported cases of arbitrary detention and failure to appoint an interpreter.³⁶

Minors. The Migration Act does not contain child-specific provisions relevant to the issue of detention. In practice, unaccompanied minors are not officially detained when they are taken into custody by a section of the police that specializes in prevention, intervention, and capacitation with respect to children (DINAPEN - *Dirección Nacional de Policía Especializada para Niños, Niñas y Adolescentes*).³⁷

Based on the information received by the GDP, DINAPEN does not have a particular place to hold unaccompanied minors in custody for any length of time. At maximum, DINAPEN keeps minors at its offices for some hours while it attempts to locate family members or close friends, who can take charge of the child. If no one is identified who could take care of the child, DINAPEN coordinates with Ministry of Economic and Social Inclusion and the office of public prosecutor to undertake emergency measures to guarantee that the minor is admitted to a shelter. These emergency measures are not meant to exceed 72 hours, after which UNHCR or NGOs tend to be in charge of the minor. UNHCR usually attempts to place the minor in a foster home while NGOs rent in flat. Once the minor is accommodated in a shelter, DINAPEN coordinates with the Exterior Ministry, Interior Ministry, and UNHCR to determine the situation in the child's country of origin and with the consulates to trace the families and organize repatriation.³⁸

The GDP received contradictory information concerning the disposition of children apprehended with their parents. One human rights advocate stated that families are generally released and accorded alternatives to detention.³⁹ According to the Public Defender Office, aside from exceptional cases, families are not detained. Rather, they are separated, sometimes with the father placed in detention while mothers and children are released.⁴⁰ On the other hand, according to DINAPEN, families are not separated

³⁵ Arcenales Illescas, Javier. *LAS POLÍTICAS DE DEPORTACIÓN EN EL ECUADOR: ANALISIS DESDE UN ENFOQUE DE DERECHOS HUMANOS*. PROGRAMA ANDINO DE DERECHOS HUMANOS ESPECIALIZACIÓN SUPERIOR EN DERECHOS HUMANOS. 2012.

³⁶ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW). *Consideration of reports submitted by States parties under article 74 of the Convention: Concluding observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families: Ecuador*. CMW /C/ECU/CO/2. OHCHR. 15 December 2010.

<http://www.ohchr.org/EN/HRBodies/CMW/Pages/CMWIndex.aspx>.

³⁷ Blanco, Adriana (Asylum Access Ecuador). *Additional Information to the Global Detention Project Questionnaire: Ecuador*. 20 December 2013.

³⁸ Undisclosed source. Email communication between members of academia and Izabella Majcher (Global Detention Project). May 2015. Undisclosed source. Email communication between members of civil society organizations and Izabella Majcher (Global Detention Project). May 2015.

³⁹ Blanco, Adriana (Asylum Access Ecuador). *Additional Information to the Global Detention Project Questionnaire: Ecuador*. 20 December 2013.

⁴⁰ Undisclosed source. Email communication between members of civil society organizations and Izabella Majcher (Global Detention Project). May 2015.

but rather are placed together in Hotel Carrion even though this detention facility does not appear to have a section dedicated for the holding family units.⁴¹

Non-custodial measures. Under article 31 of the Migration Act, if expulsion cannot be executed because the non-citizen is a stateless person, lacks identity documents, or other has a reasonable explanation for his/her status, a judge of contraventions can request a criminal judge to replace detention with alternative measures set out in the Code of Criminal Procedure. Also the Public Defender and lawyers may request application of non-custodial measures. Article 171 of the Code enumerates alternative measures to preventive detention, such as a house arrest with the supervision by the police, periodic reporting, and geographical restrictions. In practice, however, immigration detention is applied as rule in all deportation cases, while non-custodial measures are applied only exceptionally.⁴²

Criminalisation. Article 37 of the Migration Act sets out penal sanctions for violations of its provisions, which are regulated by the Code of Criminal Procedure. Accordingly, the article lists several states-related infractions, which can be punishable with imprisonment and/or fine. Among the relevant infractions are entering or attempting to re-enter the country without authorization after having been deported, which can be punishable with imprisonment for up to three years and a fine of up to 4,000 USD.

⁴¹ Undisclosed source. Email communication between members of academia and Izabella Majcher (Global Detention Project). May 2015.

⁴² Undisclosed source. Email communication between members of civil society organizations and Izabella Majcher (Global Detention Project). May 2015.

Detention infrastructure

The Migration Act does not specifically state where immigration detainees should be confined.⁴³ In practice, they are detained at a rehabbed hotel called Hotel Carrion in Quito or at “provisional detention centres” (*Centros de Detención Provisional*) across the country. In addition, non-citizens whose entry into the country is denied can be detained at the Quito airport.⁴⁴

Over the past few years, detention sites in Quito have undergone several changes. Until 2010 migrants were detained in Migration Police cells. In 2010, the UN Committee on Migrant Workers expressed concern that the detention of people in an irregular situation took place in prisons for ordinary offences or in pretrial detention centres that are overcrowded and in poor condition, without access to basic social services. The Committee recommended that Ecuador adopt measures to improve conditions in temporary detention centres so that they are not the same as prisons, and that men and women be separated. It also urged the country to ensure the provision of basic social services, including food, health care and hygienic conditions, and to expedite deportation procedures.⁴⁵

In January 2011, the Ministry of Interior rented a hotel in the centre of Quito called Hotel Hernan (*Albergue Temporal de Detenciones*). Hotel Hernan was used until January 2013, when, again faced with criticism, the government decided to rent another hotel for holding migrants, Hotel Carrión in the north of Quito, which remains in use as of 2015.⁴⁶

Hotel Carrion (officially known as the *Centro de Acogida Temporal*) appears to be the only long-term dedicated immigration detention used in Ecuador. Although it is a former hotel, it does not appear to have an ad-hoc character. Following rehab work, the facility is administratively and structurally designed to serve immigration detention purposes. The Interior Ministry also installed electrified fences, guard posts, and a closed-circuit video system. The GDP characterizes Hotel Carrion as a dedicated immigration detention centre.⁴⁷

⁴³ Arcenales Illescas, Javier. *LAS POLÍTICAS DE DEPORTACIÓN EN EL ECUADOR: ANALISIS DESDE UN ENFOQUE DE DERECHOS HUMANOS*. PROGRAMA ANDINO DE DERECHOS HUMANOS ESPECIALIZACIÓN SUPERIOR EN DERECHOS HUMANOS. 2012.

⁴⁴ International Detention Coalition (IDC). *INFORME REGIONAL DETENCIÓN MIGRATORIA Y ALTERNATIVAS A LA DETENCIÓN EN LAS AMÉRICAS*. October 2014. Undisclosed source. Email communication between members of civil society organizations and Izabella Majcher (Global Detention Project). May 2015.

⁴⁵ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW). *Consideration of reports submitted by States parties under article 74 of the Convention: Concluding observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families: Ecuador*. CMW/ICEJ/CO/2. OHCHR. 15 December 2010. <http://www.ohchr.org/EN/HRBodies/CMW/Pages/CMWIndex.aspx>.

⁴⁶ Ruesen Eva, Adriana Blanco and Karina Sarmiento (Asylum Access Ecuador). *Global Detention Project Questionnaire: Ecuador*. 15 October 2013.

⁴⁷ Ruesen Eva, Adriana Blanco and Karina Sarmiento (Asylum Access Ecuador). *Global Detention Project Questionnaire: Ecuador*. 15 October 2013. Ministerio del Interior. Website. “Respeto a DDHH es prioridad en el Centro de Acogida para extranjeros en situación irregular.” 5 December 2013.

Located in the city centre, the four-floor Hotel Carrion has a capacity of 52, with 20 places reserved for women. In June 2014, the Ombudsman ([Defensoria del Pueblo](#)), in its capacity as the National Preventive Mechanism, visited Hotel Carrion. At the time of the visit, the centre confined 33 non-citizens, 23 men and 10 women. As observed by the Ombudsman, the centre has two zones, for men and women, respectively, and men and women have different hours for activities, including visits and meals. Thus they have no physical contact. Cells in both the women's and men's areas have the capacity of two to four persons. In each zone, there is a bathroom with hot water, WC, and shower. There is also a recreation space with TV and sofas. The Ombudsman found that the building and furniture were in a good state of repair.⁴⁸

On the other hand, the Ombudsman was concerned at the lack of recreational activities for detainees. Upon admission to the centre, detainees receive only a bar of soap and a roll of toilet paper. On the positive side, unlike in other countries researched by the GDP, such as [Libya](#), detainees are permitted to use mobile phones. However the Ombudsman's report does not detail whether they had realistic opportunity to buy telephone cards.⁴⁹

As of 2013 the centre employed eight administrative staff members and eight police officers.⁵⁰ However, during its 2014 visit, the Ombudsman found that the administrative team was made up of nine persons, including an administrator, coordinator, secretary, driver, two administrative officers, two lawyers, and a psychologist. On the other hand, the centre employed four police officers, including one female.⁵¹

There is no doctor or nurse permanently at the centre. Medical assistance is coordinated with a local medical centre. Detainees have access to psychological assistance provided by the Interior Ministry, which raises questions about the independence of this service. The majority of detainees interviewed during the visit stressed that they did not receive information about deportation proceedings applicable to them or legal aid. Some detainees were supposedly not informed about hearings or informed shortly before what

<http://www.ministeriointerior.gob.ec/respeto-a-ddhh-es-prioridad-en-el-centro-de-acogida-para-extranjeros-en-situacion-irregular/>.

⁴⁸ Dirección Nacional del Mecanismo de Prevención de la Tortura, Tratos Crueles y Degradantes (MNPT). *INFORME DE LA VISITA PORMENORIZADA AL CENTRO DE ACOGIDA TEMPORAL PARA CIUDADANOS/AS EXTRANEJROS/AS EN PROCESO DE DEPORTACIÓN "HOTEL CARRIÓN."* July 2014.

⁴⁹ Dirección Nacional del Mecanismo de Prevención de la Tortura, Tratos Crueles y Degradantes (MNPT). *INFORME DE LA VISITA PORMENORIZADA AL CENTRO DE ACOGIDA TEMPORAL PARA CIUDADANOS/AS EXTRANEJROS/AS EN PROCESO DE DEPORTACIÓN "HOTEL CARRIÓN."* July 2014.

⁵⁰ Ministerio del Interior. Website. "Respeto a DDHH es prioridad en el Centro de Acogida para extranjeros en situación irregular." 5 December 2013. <http://www.ministeriointerior.gob.ec/respeto-a-ddhh-es-prioridad-en-el-centro-de-acogida-para-extranjeros-en-situacion-irregular/>.

⁵¹ Dirección Nacional del Mecanismo de Prevención de la Tortura, Tratos Crueles y Degradantes (MNPT). *INFORME DE LA VISITA PORMENORIZADA AL CENTRO DE ACOGIDA TEMPORAL PARA CIUDADANOS/AS EXTRANEJROS/AS EN PROCESO DE DEPORTACIÓN "HOTEL CARRIÓN."* July 2014.

made it impossible to prepare the hearing.⁵²

In the course of 2013, 424 non-citizens were confined in the centre, of whom 229 were deported. The remaining detainees were either released or granted alternatives to detention.⁵³

When non-citizens are apprehended outside Quito, they are detained at provisional detention centres (CDP), which are located across the country. The CDPs are pre-trial detention centres; there are no sentenced people held in these facilities. Under the GDP classification of immigration detention facilities, the provisional detention centres are coded as police stations. Often, immigration detainees are transferred from the CDPs to Hotel Carrion before deportation. Sometimes migrants spend whole their detention period in CDPs, being confined alongside pre-trial detainees.⁵⁴

In addition, non-citizens whose entry into the country is denied can be detained at the Mariscal Sucre airport in Quito. The facility is little more than a small waiting room capable of holding up to some seven people at a time. The room reportedly has no furniture, including no chairs or tables.⁵⁵ The Ombudsman visited the facility in January 2012 and found 10 persons detained there, of whom some had been there for longer than 24 hours.⁵⁶ According to the office of the Public Defender a case was reported of a person detained there for 25 days.⁵⁷

According to the information collected by the IDC, independent monitoring of detention centres is sometimes impeded. Like in [Mexico](#), Guatemala, and the Dominican Republic, access to the places of detention may be restricted for human rights organizations who publish the results of their monitoring activities, denounce violations of detainees' rights, or offer legal assistance. Such organizations may lose temporarily or definitively the access to the places of detention.⁵⁸ It was pointed out to the GDP that the only two institutions allowed to access Hotel Carrion are the Ombudsman and Public Defender

⁵² Dirección Nacional del Mecanismo de Prevención de la Tortura, Tratos Crueles y Degradantes (MNPT). *INFORME DE LA VISITA PORMENORIZADA AL CENTRO DE ACOGIDA TEMPORAL PARA CIUDADANOS/AS EXTRANEJOS/AS EN PROCESO DE DEPORTACIÓN "HOTEL CARRIÓN."* July 2014.

⁵³ Ministerio del Interior. Website. "Respeto a DDHH es prioridad en el Centro de Acogida para extranjeros en situación irregular." 5 December 2013. <http://www.ministeriointerior.gob.ec/respeto-a-ddhh-es-prioridad-en-el-centro-de-acogida-para-extranjeros-en-situacion-irregular/>.

⁵⁴ Ruesen Eva, Adriana Blanco and Karina Sarmiento (Asylum Access Ecuador). *Global Detention Project Questionnaire: Ecuador*. 15 October 2013. Undisclosed source. Email communication between members of civil society organizations and Izabella Majcher (Global Detention Project). May 2015.

⁵⁵ Undisclosed source. Email communication between members of civil society organizations and Izabella Majcher (Global Detention Project). May 2015.

⁵⁶ Defensoría del Pueblo de Ecuador. Pronunciamento N. 003-DPE-DINAPROT-55277-2012. January 2012.

⁵⁷ Undisclosed source. Email communication between members of civil society organizations and Izabella Majcher (Global Detention Project). May 2015.

⁵⁸ International Detention Coalition (IDC). *INFORME REGIONAL DETENCIÓN MIGRATORIA Y ALTERNATIVAS A LA DETENCIÓN EN LAS AMÉRICAS*. October 2014.

(Defensoria Publica).⁵⁹

⁵⁹ Undisclosed source. Email communication between members of academia and Izabella Majcher (Global Detention Project). May 2015.

List of Detention Sites

| Name | Status (Year) | Location | GDP Facility Type | Detention Timeframe | Security | Authority | Management | Capacity | Population across specified period | Demographics & Segregation |
|------------------------|---------------|----------|--------------------------|---------------------|----------|--------------------------|------------|-----------|------------------------------------|---|
| Hotel Carrión | In use (2015) | Quito | Migrant detention centre | Long-term | Secure | Ministry of the Interior | Police | 52 (2014) | 424 (Jan-Sept 2013) | Adult males, adult females (2014); Gender segregation (2014) |
| Mariscal Sucre airport | In use (2015) | Quito | Transit centre | | Secure | | | 7 (2015) | | Adult males, adult females (2015); No gender segregation (2015) |

Map of Detention Sites



Country View

- 1. Hotel Carrión
- 2. Quito Mariscal Sucre airport

Country links

Government Agencies

Interior Ministry's Migration Service

<http://www.ministeriointerior.gob.ec/migracion/>

International Organizations

UN High Commissioner for Refugees – Ecuador Country Information

<http://www.unhcr.org/pages/49e492b66.html>

International Organisation for Migration – Ecuador Information

<http://mac.iom.int/cms/ecuador>

NGOs & Research Institutions

Asylum Access Ecuador

<http://asylumaccess.org/AsylumAccess/who-we-are/ecuador>

Coalición por las Migraciones y el Refugio

<https://movilidadhumana.wordpress.com/>

Jesuit Refugee Service (JRS) Ecuador

<http://www.jesuitas.ec/servicio-jesuita-a-refugiados-ecuador-sjr-ec/>

Programa Andino de Derechos Humanos (PADH)

<http://www.uasb.edu.ec/padh/>

Media

El Telégrafo

<http://www.telegrafo.com.ec/>

El Universo

<http://www.eluniverso.com/>
