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Security Measures and Constitutional Limits in Contemporary Ecuador

Medidas de seguridad y límites constitucionales en el Ecuador contemporáneo

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ABSTRACT

The objective of this article was to analyze the relationship between public safety measures and their impact on the enforcement of human rights. A qualitative socio-legal approach was employed, utilizing hermeneutic-legal, historical-logical, comparative, and systemic methods to examine the constitutional regulatory framework and contrast institutional practice with the models of Colombia and Peru. The results show that there are five hermeneutic categories structuring the regulatory framework; a structural dissonance was verified between the rights-based model and security practice across six dimensions; Ecuadorian constitutional oversight exhibits less argumentative density than the Colombian model, posing a risk of normalizing exceptionalism. In conclusion, the systematic repetition of states of emergency compromises non-derogable rights, making it essential to strengthen the proportionality test and institutionalize judicial oversight mechanisms to constitutionally legitimize public security policy.

Descriptors: human rights, human security; governance. (Source: UNESCO Thesaurus).

RESUMEN

El artículo tuvo como objetivo analizar la relación entre las medidas de seguridad ciudadana y su incidencia en la vigencia de los derechos humanos. Se empleó un enfoque socio-jurídico cualitativo con métodos hermenéutico-jurídico, histórico-lógico, comparativo y sistémico para examinar el marco normativo constitucional y contrastar la praxis institucional con los modelos de Colombia y Perú. Los resultados muestran que existen cinco categorías hermenéuticas estructurantes del marco normativo; se verificó una disonancia estructural entre el modelo garantista y la praxis de seguridad en seis dimensiones; el control constitucional ecuatoriano presenta menor densidad argumentativa que el modelo colombiano, con riesgo de normalización de la excepcionalidad. Como conclusión se tiene que la reiteración sistemática de estados de excepción compromete derechos inderogables, siendo imprescindible fortalecer el test de proporcionalidad e institucionalizar mecanismos de supervisión judicial para legitimar constitucionalmente la política de seguridad ciudadana.

Descriptores: derechos humanos, seguridad humana; gobernabilidad. (Fuente: Tesauro UNESCO).

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Research Articles Section

INTRODUCTION

To understand the scope of the problem underlying this research, it is important to situate the analysis within the real-world context facing modern Ecuador: a state facing an unprecedented security crisis while simultaneously being constitutionally established as a constitutional state of rights and justice. This dual condition raises fundamental questions that admit of no easy solutions or single explanations: it is not that operational efficiency in the field of security and the enforcement of fundamental rights are twin dimensions, but rather that they must exist within the same regulatory framework.

On the other hand, the analysis that follows thus seeks to contribute to this debate from a critical legal perspective, in line with the idea that human rights are central to the regulation of state behavior. Based on available statistical data, we can assess the reality of the crime situation; between January and July 2025, homicides increased by 40.36%, rising from 3,753 to 5,268 recorded cases, making the situation more violent than in the past decade (Reuters, 2025), underscoring the urgent need for the Ecuadorian state to provide immediate institutional responses. Meanwhile, the Ecuadorian Observatory on Organized Crime estimated that the national homicide rate in 2024 was 39.14 homicides per 100,000 inhabitants, making the country one of the most affected in the region (OECO, 2024), and that violent acts have spread from coastal districts to urban centers in the Sierra, where rivalry over control of small-scale drug trafficking has amplified signs of lethal violence.

Similarly, it is also reported that the internal armed conflict declared in 2024 was a response to the rise in drug trafficking and related crimes, such as arms trafficking, extortion, and illegal mining; this led to a total of approximately 101,000 internal displacements, with approximately 49,000 still ongoing by the end of 2024, concentrated in the provinces of Esmeraldas, Manabí, El Oro, and Guayas. Participación Ciudadana (2024) also stated that more than 90 percent of crimes committed in 2023 were not brought to justice and, as such, there were increased calls for aggressive state action, leaving the impression that the law would not

protect its citizens. Despite this, however, faced with the reality of this type of structural violence, the Ecuadorian state cannot do nothing in an absolute sense; Article 1 of its Constitution (2008) establishes that the country is a constitutional state of rights and justice, which means that all actions taken by the state, including security policy, must be subordinate to the principles of constitutional supremacy and the centrality of fundamental rights.

In this regard, Pérez (2024) argues that punitive power is structurally subordinate in the model to promote principles that prevent public safety from becoming an autonomous justification for the restriction of freedoms; thus, public safety in the constitutional state can only be legitimized on the basis of the effective protection of human dignity. Therefore, according to Pazmay (2021), it requires serious constitutional safeguards to establish legitimacy as a normative framework and a basis for democratic action.

Along these lines, Zaffaroni (2012) notes that the normative centrality of the rights-bearing citizen is displaced by emergency discourses that can be exploited by political actors in Latin American courts to undermine the rule of law in contexts of high violence. Therefore, the discursive operation has real-world institutional impacts that provide justification for responses which, under strict constitutional scrutiny, would not pass the proportionality test without significant institutional effort. As Ferrajoli (1995) asserts, the sole legitimacy of criminal law lies in a strict approach based on guarantees without exceptions; such limits would mean that not only are individual rights violated, but the principle of the constitutional state is weakened in its very form by the absence of guarantees.

Viewed in this context, in light of this, the discussion on security and human rights in Ecuador takes on a particular normative dimension from the perspective of the 2008 Constitution; therefore, Verdugo-Lazo (2019) explores how the prevailing sense of insecurity among contemporary societies drives the state toward a reactive and preventive model of response to this sense of insecurity, emphasizing how, even while the state may focus on being efficient in the implementation of public policy for operational effectiveness, it will often neglect the legitimacy of the basic constitutional conditions or guarantees for which it is responsible and accountable—a process that is now manifesting in the 2024–2025 context, where states of

emergency are emerging as the dominant institutional response to rising crime; by virtue of this, it is a particularly observable phenomenon. Similarly, Ortiz-Ortiz (2018) reported on structural problems due to hyper-presidentialism in the 2008 Ecuadorian Constitution, which, in times of crisis, allows for the discretionary expansion of executive power to the detriment of inter-institutional checks and balances and is therefore directly relevant to the examination of the period under study.

Given the situation, Robles-Moncayo's (2021) study on Ecuadorian public safety plans from 2017 to 2021 shows that these policies have prioritized reactive behavior at the expense of human development and social cohesion strategies; this dynamic intensified between 2024 and 2025, when a militarized logic of response came to dominate public security policy. Simultaneously, Storini et al. (2022) question the success of constitutional control in Ecuador, noting that the system has structural deficiencies that limit its ability to contain the expansion of measures restricting rights; given that the focus of control in their study is the increasingly frequent declaration of states of emergency, this finding takes on even greater relevance.

Within this analytical framework, Venegas-Maingón and Hernández-Muñoz (2019) present a conceptual framework for the limits of constituent power, a framework consistent with the specific parameters of this study; all state actions regarding security must be limited to the areas defined by the constitution, where the urgency of the context in which the action is taken does not justify the overuse of that constituent power; in this regard, Zambrano-Morán et al. (2022) provide an exemplary case and describe the evolution of constitutional oversight in Ecuador, highlighting an uneven development of judicial oversight mechanisms that directly impacts the effectiveness of oversight over security policy. In turn, Vallejo-Palacios (2015) pointed out this contradiction while investigating the inter relationship between the state paradigm of public security and human rights in Ecuador, concluding that the legitimacy of state action depends on its capacity to articulate effectiveness and guarantees within the same intervention model.

Based on the foregoing, the research question driving this study is as follows: the structural contradiction between the imperatives of strengthening public security in

a new criminal landscape and the state's need to protect the essential guarantees enshrined in the Constitution and related international human rights instruments; in this regard, the Inter-American Commission on Human Rights (2025) noted in its Annual Report that the militarization of public safety through repeated states of emergency has negatively impacted economic, social, and cultural rights, specifying that the systematic nature of this impact requires substantive normative and institutional responses

This raises the central question of the study: How do public safety measures impact the effective enjoyment of human rights in Ecuador?

Given the above, the purpose of this research is to analyze the relationship between public safety measures and their impact on the enjoyment of human rights.

To address this question, the following specific objectives are proposed:

Examine the regulatory framework for security and human rights in Ecuador;

Identify the contradictions between state practice and constitutional standards;

Compare the national experience with international models;

Propose guidelines for a rights-based approach to security.

METHOD

The research was situated within the field of constitutional law and human rights, adopting a qualitative socio-legal approach; This same methodological " " approach (Riofrío, 2015) helped provide the means by which a set of theoretical methods was outlined, aimed at addressing the complexity of the phenomenon from different analytical perspectives, rather than adopting reductionist concepts that would have weakened the empirical understanding of the research subject.

Thus, the main methodological axis in this work was a hermeneutic approach, serving as the basis for careful research into the interpretation of the Constitution of the Republic of Ecuador (2008), subconstitutional regulations on public safety, and international human rights instruments ratified by the State; Through this method, we hoped to unravel the normative scope of the laws, discern the limits

imposed on punitive power by constitutional guarantees, and uncover gaps between the normative language embedded in the texts and their practical application.

Thus, the current legal hermeneutic systematization was not confined to a literal reading of the texts, but also extended to a systematic and teleological reading with the aim of understanding the meaning of the norms within the model of a constitutional state of rights and justice; this interpretive approach was indispensable when discussing the compatibility of public policy statements with a constitutional text designed to protect rights. Conversely, the historical-logical method provided us (in a holistic manner regarding long-term institutions) with the means to explore the trajectories of human rights, enabling the evolutionary reconstruction of citizen security in Ecuador—from different versions of traditional public order to a comprehensive vision consolidated under the 2008 Constitution; this historical perspective allowed us to contextualize the new regulatory changes and their contribution within the context of a long-term institutional trajectory.

Similarly, the comparative process made it possible to compare Ecuador's experience with that of Colombia and Peru, two countries that had experienced security crises under constitutional frameworks whose constitutions resemble Ecuador's; this aim is not to imitate but to analyze: to identify differences in the degree and quality of constitutional controls in order to derive insights that strengthen Ecuador's model of guarantees. Simultaneously, using the systemic method, it was possible to study the security system as an institutional architecture through which different state functions interacted to interpret the interaction between the executive branch, the security forces, and judicial oversight institutions, leading to mechanisms with an impact on human rights.

RESULTS

The results of the research are presented in this section:

Hermeneutic Categories of the Regulatory Framework for Public Safety in Ecuador

A hermeneutic analysis of the Ecuadorian legal system as it pertains to public safety revealed the presence of five structural categories that define the regulation of this issue within the constitutional framework. Each category encapsulates a core set of

norms with direct implications for the legitimacy of public safety policies and is systematically presented in Table 1.

Table 1. *Hermeneutic categories of the regulatory framework for public safety in Ecuador.*

Category	Normative Foundation	Hermeneutic content	Guarantee-based Implication
C1: Security as a subordinate function	Arts. 1, 3, 11 CRE (2008)	Security is not an autonomous objective of the State, but rather an instrumental function aimed at guaranteeing the effective enjoyment of constitutional rights.	Any security policy must pass a constitutionality review regarding its compatibility with fundamental rights, and the urgency of the situation cannot overturn that hierarchy.
C2: Regulated exceptionality	Arts. 164–166 CRE (2008); Constitutional Court of Ecuador (2024), Rulings 1-24-EE/24, 2-24-EE/24, 3-24-EE/24	States of emergency are temporary measures, subject to justification and automatic review; renewal requires verification of the continued existence of the grounds and enhanced justification.	The systematic repetition of declarations undermines the extraordinary nature of the exception and leads to institutional normalization that reduces the requirement for reinforced justification.
C3: Non-derogable rights	Art. 27 ACHR; Art. 89 CRE (2008); IACHR (2025)	There is a core set of rights that cannot be suspended under any circumstances: life, personal integrity, the prohibition of torture, and essential judicial guarantees.	Security operations, even in contexts of a declared emergency, may not violate the essential core of these rights, not even indirectly.
C4: Principle of proportionality	Arts. 76, 158 CRE (2008); Salas-Salazar (2010)	Any restriction of rights must pass a test of suitability, necessity, and proportionality in a strictly sense, with an explicit analysis of less harmful alternatives.	The absence of this structured analysis in the design of security policies constitutes an autonomous, constitutional violation, regardless of the measure's effectiveness.
C5: Effective constitutional review	Arts. 166, 429 CRE (2008); Storini et al. (2022); Zambrano-Morán et al. (2022)	The Constitutional Court exercises automatic review over states of emergency, verifying the formal and substantive requirements of each declaration and its amendments.	The effectiveness of this review depends on the depth of the reasoning applied; without a structured proportionality test, formal review is insufficient to curb punitive expansion.

Source: own elaboration.

Analysis of the first category suggests that public security is not presented in the text as a value or an objective in itself, but rather as an instrument of the State, which is responsible for guaranteeing the effective exercise of rights. In this sense, Article 3 of the Constitution (2008) establishes the State's primary responsibility as ensuring the effective enjoyment of constitutional rights, regardless of individual differences; therefore, it is not reasonable to restrict protection, but rather to ensure that it functions by providing the means to protect.

Following this framework, Pazmay (2021) argues that public security is constitutionally justified only to the extent that it is linked to the protection of human dignity; without this connection, public policy is not grounded in the constitutional state of rights and justice. For the second category, an examination of Articles 164 through 166 of the Constitution (2008) leads to the conclusion that exceptional measures have been conceived as an extraordinary instrument subject to strict formal and material conditions. Meanwhile, the Constitutional Court of Ecuador (2024), in its Opinions 1-24-EE/24, 2-24-EE/24, and 3-24-EE/24, examined the executive decrees issued between January and April 2024 and considered the factual basis of each case, the proportionality of the measures taken, and, in the third opinion, the adequacy of constitutional oversight regarding the modification of restrictive measures during the state of exception; the opinions regarding the executive decrees found them to be in compliance with the constitutionality of the declaration but subject to a different constitutional review should the substantive con s of the measures deviate from the norm, demonstrating that the state of exception does not function as an institutional automatism.

Regarding the third category, Article 27 of the American Convention on Human Rights, in line with Article 89 of the Constitution (2008), establishes a core set of rights that cannot be suspended at any level, such as the right to life, personal integrity, the prohibition of torture, and fundamental judicial guarantees. The Inter-American Commission on Human Rights (2025) reiterated once again in its Annual Report that even in situations of emergency or "militarization of security," States have the inalienable obligation to uphold these non-derogable rights, and this obligation applies directly to all joint operations launched within the framework of the internal armed conflict declared in 2024, without operational urgency serving as an exemption.

With regard to the fourth framework, proportionality is the key tool for determining the constitutionality of restrictions on rights in security contexts. In examining the principle of proportionality in terms of legal interpretation, Salas-Salazar (2010) organizes its components into three sub-principles: suitability, which requires that the measure be necessary to achieve the legitimate aim pursued; necessity, which requires the absence of alternatives less harmful to rights; and proportionality in

the strict sense, which requires that the benefits associated with the measure outweigh its costs to rights. This lack of a structured analysis in the drafting of Ecuadorian security policy is not merely an independent constitutional violation.

The fifth category allows us to verify that the constitutional review exercised by the Constitutional Court is the central mechanism that completes the system of guarantees. Storini et al. (2022) point to structural weaknesses in Ecuador's constitutional oversight apparatus that limit its ability to curb the expansion of coercive measures; these include the work of Zambrano-Morán et al. (2022), who identify an uneven development of judicial oversight mechanisms in Ecuador that affect the effectiveness of controls over security policies. Although states of emergency are currently formally in effect, this automatic control requires a level of argumentative rigor that is not necessarily achieved when attention is focused solely on verifying their formal premises, neglecting a substantive analysis of proportionality.

Theoretical Contrast Between the Rights-Based Model and Security Practice in Ecuador

The contrast between the constitutional model of constitutional guarantees and the security practices implemented between 2024 and 2025 reveals a structural dissonance that manifests across six central dimensions. These dimensions are presented comparatively in Table 2, which identifies both the required normative standard and the available evidence regarding its effective compliance.

Table 2. *Theoretical contrast between the rights-based model and security practices in Ecuador.*

Dimension	Guarantee-based model (as it should be)	Security practice (actual)	Identified gap
Basis for action	Strict legality, prior regulatory authorization, clear definition of grounds, and judicial review (Ferrajoli, 1995).	Successive emergency decrees citing generic grounds such as "serious internal unrest" or "serious disruption of the established order," without explicit analysis of specific circumstances.	Weakening of the principle of specific grounds for states of emergency; expansion of executive discretion without corresponding strengthened oversight.
Use of force	Principles of necessity, proportionality, and progressivity; differentiated protocols for police and military forces (OHCHR, 2024).	Direct involvement of the Armed Forces in internal security operations; documented reports of excessive use of force and alleged extrajudicial	Functional overlap between the police and the Armed Forces without clear protocols for the progressive use of force

Dimension	Guarantee-based model (as it should be)	Security practice (actual)	Identified gap
		executions (Human Rights Watch, 2024).	adapted to the internal security environment.
Rights during operations	Unrestricted respect for non-derogable rights; prohibition of arbitrary detentions, degrading treatment, and unjustified restrictions on freedom of movement.	Increase in complaints regarding arbitrary detentions, inappropriate treatment, and undue restrictions on movement during joint operations (Ombudsman's Office, 2024).	Shortcomings in real-time judicial oversight of operational activities; lack of accessible and secure complaint mechanisms during operations.
Control and Accountability	Independent, prompt, and effective investigations into allegations of abuse; punishment of those responsible and reparations for victims (IACHR, 2025).	Insufficient oversight mechanisms; lack of systematic investigations into complaints arising from operations related to the internal armed conflict.	Institutional impunity that discourages reporting and gradually normalizes the excesses committed during security operations.
Public Discourse	Language that guarantees rights and is oriented toward citizens as rights-holders; security conceived as a condition for the exercise of rights (Pazmay, 2021).	War narrative: 'internal armed conflict,' 'internal enemy,' 'war on crime'; language that shifts the focus from the citizen as a subject of rights to the dangerous subject.	A shift away from rights-based language that facilitates the expansion of punitive power and reduces the requirement for constitutional justification of restrictive measures (Zaffaroni, 2012).
Nature of the exceptionality	Temporary, proportional, with automatic termination upon the disappearance of the grounds; renewal with reinforced justification and constitutional review of each extension.	Systematic reiteration of states of emergency with increasing territorial coverage throughout 2024 and 2025, without the structural causes of violence disappearing.	Normalization of the exceptional state that erodes the threshold for justifying restrictions and leads to institutional habituation to extraordinary measures.

Source: own elaboration.

The first dimension of contrast concerns the basis for state action; in this case, Ferrajoli (1995) argues that punitive power is legitimate only when subject to the principle of legality, understood as a formal and substantive limit, since legality requires not only a prior law but also that the grounds for intervention be clearly identified and effective judicial oversight ensured. At the same time, emergency decrees during the period analyzed relied on general grounds without a specific focus on the situation or concrete decision that would have justified such actions; this generalization undermines the principle of specificity regarding grounds for exceptions and the executive's power to act beyond what the constitution permits.

Regarding the second dimension involving the use of force, for example, the Office of the United Nations High Commissioner for Human Rights (2024) noted that such

law enforcement agencies do not follow the same steps in the spectrum of progressive use of force as police forces do in emergency situations, internal conflicts, or emergencies, and the use of military forces in providing public security should be subject to stronger safeguards, especially since the framework has not been designed to meet the same standards that apply to police forces; this structural asymmetry is likely to result in a higher frequency of disproportionate use of force.

In this regard, Human Rights Watch (2024) also documented reports of excessive use of force and extrajudicial executions that occurred during operations carried out following the declaration of internal armed conflict, indicating that the functional overlap between the Police and the Armed Forces is a risk factor for the respect of fundamental rights and, without clearly differentiated protocols for action, this functional overlap forms the basis of a systematic risk factor for these rights.

In the third dimension, rights on the ground, the Ecuadorian Ombudsman's Office (2024) reported that complaints of violations during control operations, particularly arbitrary detentions and inappropriate treatment by joint forces, increased; these data further underscore the view that the absence of real-time judicial oversight significantly increases the risk of abuse. The Ecuadorian Observatory on Organized Crime (OECO, 2024) found that an escalation in arrests in flagrante delicto and territorial control resulted in conditions of violent interaction between state entities and citizens, making it relatively more likely that fundamental guarantees would be violated.

Meanwhile, the fourth dimension concerns oversight and accountability: in this context, the IACHR (2025) stated in its Annual Report that the use of force must be subject to independent, prompt, and effective investigations when there are reports of abuse, but the available evidence indicates that oversight mechanisms were not in place with the necessary intensity and speed during the era of heightened security militarization.

Therefore, this deficiency creates an effect of institutional impunity that discourages reporting and gradually normalizes excesses, creating a cycle that continues to develop and solidify over time. Meanwhile, the fifth dimension refers to public discourse on security; as Zaffaroni (2012) asserts, punitive discourses help expand

criminal power by pitting the logic of the citizen as a rights-holder against that of the subject deemed dangerous, because as soon as the institutional narrative employs war-like categories, the logic of the constitutional state becomes clouded and the call for a justification based on guarantees for restrictive measures is threatened.

In this context, the label "internal armed conflict," adopted in January 2024, operated precisely in this direction, legitimizing the use of stronger " " interventions under criteria of urgency, but relegating the analysis of proportionality to a secondary level.

Thus, the sixth dimension, which refers to the exceptional nature of the situation, reflects what Verdugo-Lazo (2019) calls the pressure on the state as it becomes aware of the sense of insecurity that leads it to adopt a relatively more coercive stance; the systematic repetition of states of emergency through the expansion of territorial coverage in both 2024 and 2025 had an effect of institutional habituation: lowering the threshold for justifying restrictions and turning the exceptional into the standard practice of public order management. In light of this, Robles-Moncayo (2021), for example, noted that Ecuadorian public safety plans tended to favor reactive rather than preventive measures, and this institutional trend became evident during the period studied.

Comparative Analysis of Constitutional Review in States of Emergency: Ecuador, Colombia, and Peru

A comparison of the Ecuadorian, Colombian, and Peruvian models of constitutional review in states of emergency reveals substantive differences in the intensity and quality of judicial scrutiny, offering valuable insights for strengthening Ecuador's rights-based model. These differences are summarized in Table 3.

Table 3. *Comparative Analysis of Constitutional Oversight During States of Emergency: Ecuador, Colombia, and Peru.*

Dimension	Ecuador	Colombia	Peru
Type of constitutional review	Automatic review by the Constitutional Court (Art. 166 CRE); formal and substantive review of grounds, temporality, and	Review by the Constitutional Court through an integrated constitutionality review; verification of purpose,	Review by the Constitutional Court; verification of constitutional requirements and the principles of

Dimension	Ecuador	Colombia	Peru
	reasonableness of measures (Constitutional Court of Ecuador, 2024).	substantive connection, legal and factual necessity, proportionality, non-discrimination, and the inviolability of rights.	reasonableness and proportionality, without a structured test equivalent to the Colombian one (Constitutional Court of Peru, 2003, 2023).
Complexity of the proportionality test	Verification of the executive's justification and the grounds invoked; the analysis of less harmful alternatives is not always carried out in a manner consistent with the systematization observed in other models.	Test disaggregated into suitability, necessity, and proportionality in the strict sense; applied systematically and mandatory in the review of restrictions on rights (Dec. C-802/02; C-156/11; C-145/20).	Recognition of the principle of reasonableness and proportionality in case law, but without establishing a structured and systematic y test equivalent to the Colombian model.
Risk of normalization	Medium-high: repeated declarations between 2024–2025 with progressive territorial expansion that strains the exceptional nature of the exception.	Low-medium: established constitutional case law acts as a 'constitutional cap' on the exception, raising the legal cost of punitive expansion.	High: Permanent exceptionality documented in the VRAEM; progressive weakening of the threshold for justifying restrictions due to repeated states of emergency.
Key jurisprudential source	Rulings 1-24-EE/24, 2-24-EE/24, 3-24-EE/24 (Constitutional Court of Ecuador, 2024).	Rulings C-802/02, C-156/11, C-145/20 (Constitutional Court of Colombia, 2002, 2011, 2020).	Case No. 0006-2003-AI/TC; Case No. 00007-2022-PI/TC (Constitutional Court of Peru, 2003, 2023).
Lesson for Ecuador	Strengthen the argumentative depth of the proportionality test in constitutional rulings so that substantive review is more rigorous than formal review.	Reference model: systematize substantive review of exceptional measures through a mandatory integrated constitutionality test.	Warning: the repetition of the exceptional regime without rigorous substantive review leads to institutional habituation and gradually erodes the constitutional rule of law.

Source: own elaboration.

Regarding the Colombian case, the Constitutional Court established a line of jurisprudence creating a structured and verifiable substantive review for states of emergency. Thus, Ruling C-802 of October 2, 2002 (Constitutional Court of Colombia, 2002) established that the review of a state of internal disturbance consists of verifying not only the formal authority of the executive branch, but also the actual existence of factual grounds and the proportionality of the actions taken. This model was further developed in Ruling C-156 of March 9, 2011 (Constitutional Court of Colombia, 2011), in which the court formulated the proportionality test and analyzed suitability, necessity, and proportionality in strict terms as a necessary standard for reviewing restrictions on rights during emergencies.

Subsequently, in Ruling C-145 of May 20, 2020 (Constitutional Court of Colombia, 2020), the court systematized the so-called integrated constitutionality review, which includes an analysis of purpose, material connection, legal and factual necessity, proportionality, non-discrimination, and the inviolability of rights, establishing a framework of control that minimizes the executive's discretionary power and serves as a constitutional safeguard against the special exception. While the Colombian approach illustrates the risks of inadequate oversight, in the case of Peru the risks were evident.

According to a ruling issued by the Constitutional Court of Peru in Case No. 0006-2003-AI/TC (Constitutional Court of Peru, 2003), this point was acknowledged. It was noted that the suspension of rights does not authorize arbitrariness. However, subsequent case law did not replicate the structured test of the Colombian model using the same systematization method found in Colombia. Nevertheless, in the Ruling on Case No. 00007-2022-PI/TC (Constitutional Court of Peru, 2023), the court further emphasized that states of emergency in and of themselves cannot entail the absolute suppression of rights, although it noted that a full commitment to the process of substantive verification of constitutional grounds remained the focus of the assessment.

This methodological vulnerability granted the Apurímac, Ene, and Mantaro River Valleys their standard characteristics of a state of emergency, where the army exercised its internal control functions and extended them both for the duration of those periods and over time, blurring the distinction between ordinary and extraordinary regimes. A detailed analysis of the Ecuadorian case, based on Opinions 1–24-EE/24, 2–24-EE/24, and 3–24–EE/24 (Constitutional Court of Ecuador, 2024), shows that Ecuador's exercise of constitutional control, although formally in force, has yet to achieve the argumentative depth typical of the Colombian model. Because there is no systematic exploration of less harmful alternatives or a proportionality test in the strictest sense, scrutiny focuses primarily on confirming the executive's motivation and the existence of the invoked cause.

Such methodological differences do not imply a lack of control, but rather raise questions about the rigor of the scrutiny applied when restrictions are repeated over time, especially when exceptionalism becomes a recurring feature of public

security management. In this vein, three structural orientations characterizing the Ecuadorian experience emerge from this comparison. It is worth noting that the first shows that the effectiveness of constitutional oversight over exceptional measures depends directly on the argumentative density of the proportionality test, on the understanding that the more structured and detailed this instrument is, the greater the court's capacity to curb the excesses of the executive branch.

Similarly, the second indicates that the Colombian experience shows it is possible to respond to situations of high violence without sacrificing due process standards, provided there is constitutional jurisprudence that can act as an effective barrier against punitive expansion. Conversely, the third point demonstrates that the Peruvian case serves as a cautionary example, given that the repetition of states of emergency without rigorous substantive oversight leads to institutional habituation that erodes the extraordinary nature of the exception and weakens the requirement for reinforced justification, with direct consequences for the effectiveness of fundamental rights.

DISCUSSION

The findings suggest that there is a structural dissonance between the Ecuadorian constitutional paradigm and certain security practices implemented in crisis contexts (IACHR, 2025; Human Rights Watch, 2024; Ombudsman's Office of Ecuador, 2024); this dissonance goes beyond the discursive level and manifests itself in verifiable institutional decisions. Hence, the expansion of coercive power in scenarios of militarization and prolonged exceptionalism compromises the principles of necessity and proportionality, creating a pattern where operational effectiveness supplants rigorous constitutional oversight.

In this regard, Pérez (2024) asserts that the model of the constitutional state of rights and justice precludes conceiving of citizen security as an autonomous justification for restricting freedoms, since punitive power is structurally subordinate to the principles of due process and only acquires legitimacy within those limits. At the same time, Pazmay (2021) insists that public safety is only legitimate in the constitutional state when it is linked to the effective protection of human dignity;

without this link, security policies lose their normative foundation and become instruments of social control without constitutional backing.

However, an examination of the regulatory framework reveals that while the constitutional architecture establishes clear limits on the exercise of coercive power, the executive decrees that make up public security policy have prioritized a logic that expands the scope of state intervention under so-called states of internal unrest; this practice, although formally framed within the constitutional order, undermines the balance between security and rights. Viewed in this light, political discourse directly influences this configuration: when the institutional narrative adopts war-like categories such as “internal war” or “enemy,” there is a risk of blurring the logic of the constitutional state, as Zaffaroni (2012) warns by noting that the criminal law of the enemy breaks with the rights-based paradigm by justifying broad restrictions based on dangerousness rather than responsibility.

In this vein, systemic analysis shows that the contradictions are not limited to the use of force in the strict sense, but extend to other dimensions of the criminal justice system, such as prolonged pretrial detention, the expansion of criminal offenses related to organized crime, and indirect restrictions on due process; in this regard, Ferrajoli (1995) notes that these practices, although formally grounded in legal norms, create friction with the rights-based model when punitive power is not strictly conditioned by substantive and procedural safeguards. Along the same lines, the comparative analysis confirms that the key lies not in the intensity of security measures, but in the strength of institutional control and oversight mechanisms: without accountability, security loses its democratic legitimacy.

Consequently, the findings yield four perspectives for a model of public safety guarantees; the first is the reaffirmation of the principle of legality, as well as the ultra-strictly exceptional nature of the state of exception that prevents the normalization of declarations which the constituent assembly conceived as an instrument of last resort. The second, then, in its most general form, requires the institutionalization of the proportionality test—which has been further broken down into requirements of suitability, necessity, and strict proportionality—as a fundamental principle in the development and institut e oversight of security policies, and the same applies to what has been codified in Colombian constitutional

jurisprudence. The third, therefore, seeks to improve judicial accountability and oversight by ensuring that investigations into perceived violations are independent, swift, and effective, in line with the rulings of the IACHR (2025). The fourth, alternatively, is the movement to restructure security policy toward a preventive and comprehensive approach, rather than a reactive one (Robles-Moncayo, 2021).

CONCLUSION

The hermeneutic, comparative, and systemic analysis developed in this study leads to the conclusion that the public security policy implemented in Ecuador during 2024–2025 exhibits a verifiable structural dissonance with respect to the constitutional model of rights and justice enshrined in 2008; since the systematic repetition of states of emergency based on generic grounds, the functional overlap between the Police and the Armed Forces without differentiated protocols for the progressive use of force, and the inadequacy of control and accountability mechanisms constitute an institutional pattern where operational effectiveness has displaced rigorous constitutional scrutiny, compromising non-derogable rights whose protection admits of no exceptions.

Consequently, a comparison with the Colombian and Peruvian models demonstrates that the strength of the system of guarantees does not depend on the intensity of the measures adopted but on the argumentative rigor of the proportionality test applied by the constitutional oversight body; in this regard, strengthening that test, institutionalizing real-time judicial oversight, and reorienting public policy toward preventive and comprehensive strategies constitute the essential normative and institutional guidelines for public security to regain its sole legitimate foundation in the constitutional state: the effective protection of human dignity.

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