

Lima, Bogotá, and Washington D.C., August 8, 2014

Gustavo Jalkh
President
Judicial Council
Quito, Ecuador

Dear Sir,

We are writing to you from the Due Process of Law Foundation (DPLF), the Centro de Estudios de Derecho, Justicia y Sociedad/Center for the Study of Law, Justice, and Society (DeJusticia) of Colombia, and the Instituto de Defensa Legal/Legal Defense Institute (IDL) of Peru, organizations whose mandate is to promote the rule of law and human rights in Latin America, and which jointly published the report entitled “Judicial independence in Ecuador’s judicial reform process.”

We refer to your note of August 1, 2014 (Oficio-CJ-PRC-2014-487), sent on Monday, the 4th, inviting Luis Pásara, one of the most renowned jurists of the region and the author of the report commissioned by our institutions, to take part in a debate on that report.

Creating forums for informed dialogue among different actors about the challenges that the independence of the judiciary poses to the country was one of our main objectives in undertaking the research that resulted in the report. Precisely for this reason, on July 7, 2014, through a written note sent via email, we invited you to comment on the report at the public presentation that was going to be held at Simón Bolívar Andean University last July 30. Regrettably, we did not receive a response from you.

Nevertheless, the national and international press covered our report extensively, allowing for the expression of different points of view on it. Our organizations consider that the **objective of creating a public debate on such a key issue as the lack of judicial independence in the country has been fully met**. As we stated earlier, the report is based on solid empirical evidence that has not been refuted with facts and information, and we are thus able to reiterate that currently in Ecuador

- the justice system is used politically in a way that seriously jeopardizes judicial independence in cases in which a government interest is at stake, such as those seen in the cases examined in the report;
- because of this, the separation of State powers and the system of checks and balances that characterizes a democratic system have been severely weakened; and
- the Judicial Council reviews and evaluates court decisions in order to then sanction their authors—abusing the concept of “inexcusable error”—which is expressly prohibited by law.

Both your note and the statements made publicly by you and other government officials, including the President of the Republic, Rafael Correa, have taken the route of personally discrediting the author, the undersigned individuals, or our institutions, rather than referring to specific aspects of the report's content. This is not conducive to the calm and respectful climate needed for a serious debate on the content of our report and its conclusions and recommendations. For this reason, we have asked Mr. Pásara to decline the invitation referred to in this letter.

We avail ourselves of this opportunity to suggest that a formal invitation be extended to the United Nations Special Rapporteur on the Independence of Judges and Lawyers to visit your country and prepare a report on the current status of the independence of the judiciary. A report of this nature would undoubtedly contribute to the furtherance of the necessary public, serious, and informed debate on this issue.

We hope to receive your critiques and reflections in writing, and we give you our assurance that we will publish them on our websites as an official response to the report we sponsored. Finally, and with the intention of strengthening the rule of law in Ecuador, we take this opportunity to invite you and the Ecuadoran government to channel the concern over judicial independence by creating spaces for dialogue with public and private universities, civil society organizations, and the judges themselves.

Sincerely,

Katya Salazar
Executive Director
DPLF

César Rodríguez Garavito
International Director
DEJUSTICIA

Ernesto de la Jara
Founding Director
IDL