

# Ecuador | Freedom House

## POLITICAL RIGHTS: 25 / 40

### A. ELECTORAL PROCESS: 7 / 12

#### **A1. Was the current head of government or other chief national authority elected through free and fair elections? 3 / 4**

The 2008 constitution provides for a directly elected president, who can serve up to two terms. The president has the authority to dissolve the legislature, which triggers new elections for both the assembly and the presidency.

In April 2017, Lenín Moreno of the Proud and Sovereign Fatherland (PAIS) alliance won the presidential runoff with 51 percent of the vote, defeating Guillermo Lasso of the Creating Opportunities–Society United for More Action (CREO-SUMA) alliance, who took 49 percent. Some observers expressed concerns about the use of state resources to produce materials favoring Moreno.

While Lasso denounced the results as fraudulent and refused to concede, international observers generally praised the election's conduct. Lasso requested a full recount of the vote, though the CNE granted only a partial one. The CNE stated that the recount failed to reveal any significant discrepancy from the previous count, and ratified the election's result.

#### **A2. Were the current national legislative representatives elected through free and fair elections? 3 / 4**

Ecuador has a 137-seat unicameral National Assembly, with 116 members directly elected, 15 elected by proportional representation, and 6 elected through multiseat constituencies for Ecuadorians living abroad; members serve four-year terms. International and domestic observers generally praised the February 2017 legislative elections, though an Organization of American States (OAS) mission urged reforms including removing the names of deceased persons from the voter rolls, and called for more training to be made available to various actors in the electoral process. The ruling PAIS alliance won 74 out of 137 seats, followed by the opposition CREO-SUMA, which took 28. The rest of the seats were captured by nine other parties.

#### **A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 1 / 4**

The CNE is considered to be government-controlled. The body faced some criticism for its administration of the 2017 elections, including for slow vote counting and irregularities on the voter rolls. In response to the criticism, the transitional CPCCS dismissed all sitting CNE members in July 2018, and in November, five newly appointed members began a six-year term. It remains to be seen whether the new

CNE members will improve the performance and independence of the body.

The seat allocation formula for the parliament favors larger parties, which benefits the PAIS alliance. In February 2018, voters approved a referendum that restores term limits, which had been eliminated in a 2015 constitutional amendment under former president Correa; the president can now serve up to two terms, which effectively bars Correa from reclaiming the presidency. The US State Department praised the conduct of the referendum as “peaceful and fair.”

## **B. POLITICAL PLURALISM AND PARTICIPATION: 11 / 16**

### **B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 3 / 4**

According to the 2008 constitution, political organizations must register in order to participate in general elections, with a requirement that groupings must collect voters' signatures equivalent to 1.5 percent of the electoral rolls to win recognition. If a party or grouping fails to win 5 percent of the vote for two consecutive elections, its registration can be revoked, disadvantaging smaller parties. In September 2018, the transitional CNE announced that there were 276 political organizations registered for the 2019 elections.

### **B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 2 / 4**

For decades, Ecuador's political parties have been largely personality based, clientelist, and fragile. The ruling PAIS alliance remains the largest bloc in the legislature, in spite of a split between Correa supporters and Moreno supporters that widened with the passage of the referendum reinstalling term limits. There were reports that the government abused administrative resources ahead of the 2017 polls, tilting the playing field in PAIS's favor. Restrictive campaign finance laws also reduce the competitiveness of opposition parties.

### **B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 3 / 4**

The people's political choices are generally free from domination by powerful groups that are not democratically accountable. However, wealthy business interests can undermine democratic accountability by facilitating or encouraging corruption among elected officials.

### **B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 3 / 4**

Ecuador's constitution promotes nondiscrimination and provides for the adoption of affirmative action measures to guarantee equality and representation of minorities. In practice, however, indigenous groups often lack a voice in key decisions pertaining to

their land and resources. Despite gender parity measures, women's interests are not well represented in politics, as reflected in a persistent lack of access to reproductive health care.

## **C. FUNCTIONING OF GOVERNMENT: 7 / 12**

### **C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 3 / 4**

Elected officials are generally free to set and implement government policy without undue interference from nonstate actors. However, the executive has exhibited a strong influence on other branches of the government, and political actors are susceptible to manipulation by powerful business interests.

President Moreno has taken steps to reduce the dominance of the executive. The fracturing of the PAIS alliance, with more than one-third of its members in the parliament defecting in January 2018 to a new coalition that backs Correa, has compelled Moreno to work with opposition lawmakers to advance legislation.

### **C2. Are safeguards against official corruption strong and effective? 2 / 4**

Ecuador has long been racked by corruption, and the weak judiciary and lack of investigative capacity in government oversight agencies contribute to an environment of impunity. President Moreno campaigned on a promise to tackle high-level corruption, and in 2017, he stripped Vice President Jorge Glas of his powers amid corruption allegations regarding Glas's involvement with the Odebrecht scandal, which involved kickbacks paid to Ecuadorian officials by the Brazilian construction company. Later in 2017, Glas was convicted and sentenced to six years in prison for his role in the scandal. In December 2018, Moreno suspended Vice President María Alejandra Vicuña, who had been accused of accepting bribes from an aide during her time as a lawmaker, and at the end of the year she was under investigation by the chief prosecutor.

In the February 2018 referendum, voters approved a measure to ban anyone convicted on corruption charges from ever holding public office.

### **C3. Does the government operate with openness and transparency? 2 / 4**

The law guarantees citizens' right to access public information, and although compliance has improved over the years, some government bodies remain reluctant to disclose public information. In 2018, the government took steps to enhance access to information, including the establishment of a transparency monitoring mechanism to ensure that public agencies provide relevant information online. Public procurement processes are frequently opaque.

## **CIVIL LIBERTIES: 38 / 60 (+3)**

## **D. FREEDOM OF EXPRESSION AND BELIEF: 12 / 16**

**D1. Are there free and independent media? 2 / 4**

Media freedom improved noticeably after President Moreno took office in 2017. Upon his election, Moreno met with the owners of private media outlets and pledged to usher in a new, more open environment for journalists. His administration has permitted more diverse coverage in the country's state-run media, which had previously shown clear bias toward Correa and the PAIS alliance.

In December 2018, the National Assembly approved a reform of the restrictive Organic Communications Law, including the elimination of the notorious SUPERCOM, which monitors media content, investigates journalists, and issues fines and other sanctions. The legislation also removes a provision that allowed the criminalization of investigative reporting.

However, challenges remain. Correa's long history of harassing the media both verbally and through lawsuits encouraged widespread self-censorship, which Ecuadorian media advocates say will take years for the country's press corps to shake off. Criminal defamation laws remain on the books, and journalists continued to report harassment, although attacks on reporters declined significantly in 2018.

**D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 4 / 4**

Freedom of religion is constitutionally guaranteed and generally respected in practice.

**D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 3 / 4**

In May 2018, the National Assembly approved reforms to the Organic Law on Higher Education, which restores public funding for research at universities that operate in Ecuador under international agreements. The legislation that removed the funding, passed in 2016, had threatened the viability of two graduate institutions, Universidad Andina Simón Bolívar and FLACSO Ecuador.

**D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 3 / 4**

Discussion of controversial topics among private citizens is generally free. However, crackdowns on social media have led some online outlets to disable sections for public commentary for fear of reprisals, limiting the freedom of private discussion online. In August 2018, a teacher employed by a government agency was fired, which he claims was retribution for appearing on a television show and criticizing the Moreno government.

**E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 9 / 12 (+2)****E1. Is there freedom of assembly? 3 / 4**

Numerous protests occur throughout the country without incident, and restrictions

on assembly rights have eased under President Moreno. However, national security legislation provides a broad definition of sabotage and terrorism, extending to acts against persons and property by unarmed individuals, which can be used to limit assembly rights.

**E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work? 3 / 4 (+1)**

In 2017, President Moreno rescinded controversial Correa-era decrees that had introduced onerous requirements for forming a nongovernmental organization (NGO), granted officials broad authority to dissolve organizations, and obliged NGOs to register all members. However, while observers say Moreno's new regime for NGO regulation is an improvement, it has also drawn criticism for retaining excessive government regulatory power. For example, Moreno's NGO regulations allow authorities to close an NGO deemed to be performing activities different from those for which it was created, or to be participating in politics.

In 2018, President Moreno continued to engage in constructive dialogue with civil society groups, expressed willingness to hear the viewpoints of NGOs, and has pledged further reforms to open civic space. During the year, Moreno also met with international NGOs such as the Committee to Protect Journalists (CPJ) and Human Rights Watch (HRW). Additionally, threats and denunciations of NGOs by high ranking public officials, which were common in the Correa era, have subsided since Moreno took office.

*Score Change: The score improved from 2 to 3 because President Moreno has taken steps to loosen constraints on NGOs and has engaged in constructive dialogue with them, and because threats and denunciations against by senior officials NGOs have subsided.*

**E3. Is there freedom for trade unions and similar professional or labor organizations? 3 / 4 (+1)**

Private-sector labor unions have the right to strike, though the labor code limits public-sector strikes. Only a small portion of the general workforce is unionized, partly because many people work in the informal sector. In March 2018, the National Union of Educators (UNE), which had been dissolved by the government in 2016 under restrictive NGO regulations, was able to resume operations when it was registered as a union.

*Score Change: The score improved from 2 to 3 because the National Union of Educators was able to resume operations after being dissolved in 2016 on dubious administrative grounds by the previous administration.*

**F. RULE OF LAW: 7 / 16 (+1)**

**F1. Is there an independent judiciary? 1 / 4**

Ecuador's highest-ranking judicial bodies are the 21-member National Court of Justice and the 9-member Constitutional Court. Both courts faced attacks on their

autonomy during the Correa era, but President Moreno has moved to increase judicial independence. One of the measures passed in the February 2018 referendum involved restructuring the CPCCS, a powerful body responsible for appointing the attorney general and the Judiciary Council, which in turn appoints judges. The referendum's passage led to the sacking of all CPCCS members, who were considered allies of the Correa government and had previously ensured the removal of independent judges and the appointment of judges loyal to the former president. In June, the transitional CPCCS appointed by Moreno replaced all members of the Judiciary Council with transitional members who have expressed commitment to an independent judiciary. Permanent CPCCS members will be elected by popular vote in March 2019, which should further strengthen the institution's independence.

More controversially, in August, the transitional CPCCS voted to remove all nine judges on the Constitutional Court, citing corruption and a lack of independence within the body. The referendum did not include the Constitutional Court as one of the bodies the CPCCS has jurisdiction over, meaning the move itself could be construed as an impingement on judicial independence.

## **F2. Does due process prevail in civil and criminal matters? 2 / 4 (+1)**

Judicial processes remain slow, and procedures designed to expedite cases have been implemented at the detriment of defendants' due process rights. Many people are held in pretrial detention for longer than is permitted by law. While the number of public defenders has increased in recent years, the state is still unable to provide adequate legal counsel for all defendants who are unable to supply their own.

During his tenure, former president Correa and his allies frequently intervened in court cases, telling judges how they should rule, and sometimes removing judges who refused to comply. Under President Moreno, such blatant interference in court proceedings has subsided, allowing defendants more fair public hearings of their cases.

*Score Change: The score improved from 1 to 2 because political interference in court proceedings has decreased under the Moreno administration, allowing greater access to fair public hearings.*

## **F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 2 / 4**

Allegations of police abuse of suspects and detainees continue. The prison system is overcrowded, and some facilities lack basic amenities like potable water. Prisoners risk ill-treatment and threats by guards, and violence at the hands of other prisoners.

## **F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 2 / 4**

Indigenous people continue to suffer widespread societal discrimination, and oil-drilling projects on indigenous lands are frequently carried out without consulting local indigenous communities, as required by the constitution.

The constitution includes the right to decide one's sexual orientation, and

discrimination based on sexual orientation is prohibited by law. Nevertheless, LGBT (lesbian, gay, bisexual, and transgender) individuals continue to face discriminatory treatment.

Ecuador is the largest recipient of refugees in Latin America; as of October 2018, approximately 250,000 refugees from Colombia alone had entered Ecuador since the late 1990s. In 2017, the Law on Human Mobility, which secures the rights of refugees, took effect; the law won praise from the Inter-American Commission on Human Rights (IACHR) and the UN High Commissioner for Refugees (UNHCR) for opening new avenues for refugees to claim resident status. However, the political and economic crisis in Venezuela has led to a mass influx of Venezuelan refugees; according to the International Organization for Migration, many have reported facing discrimination and xenophobia.

## **G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 10 / 16**

### **G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 3 / 4**

Freedom of movement outside and inside the country is largely unrestricted. Workers in the palm oil industry, however, have faced restrictions on their movement imposed by employers, including curfews. Individuals may generally determine their place of employment and education.

### **G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 2 / 4**

The government does not impose significant restrictions on the right to own property and establish private businesses. However, widespread corruption by both public officials and private-sector actors can obstruct normal business activity and weakens the protection of property rights.

### **G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 3 / 4**

The government has taken steps to protect women's rights through public campaigns and legal measures. Sexual harassment is punishable by up to two years in prison. The criminal code includes femicide as a crime, with penalties reaching 34 years in prison. However, violence against women remains a serious problem, with police reporting 64 cases of femicide between January and October 2018.

The constitution does not provide for same-sex marriage, but civil unions are recognized.

### **G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 2 / 4**

Men, women, and children are sometimes subjected to forced labor and sex work in

Ecuador; indigenous and Afro-Ecuadorian individuals, as well as migrants and refugees, remain most vulnerable. The government has taken some action to address the problem, including by increasing trafficking-related law enforcement operations. However, services for victims are inadequate, and some public officials believed to be complicit in trafficking operations have escaped punishment.