

# PERU 2018 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Peru is a constitutional, multiparty republic. Pursuant to the constitution, in March First Vice President Martin Vizcarra assumed the presidency following the resignation of Pedro Pablo Kuczynski. Kuczynski, leader of the Peruanos Por el Kambio (Peruvians for Change) party, had won the 2016 national elections in a vote widely considered free and fair.

Civilian authorities generally maintained effective control over the security forces.

Human rights issues included isolated cases of torture; government corruption, including in the judiciary; violence against women and girls; and forced labor (human trafficking) at illegal gold mining sites.

The government took steps to investigate and in some cases prosecute or otherwise punish public officials accused of abuses.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports the government or its agents committed arbitrary or unlawful killings.

There were no significant developments in the investigation into allegations members of the Peruvian National Police (PNP) committed the extrajudicial killings of more than 27 criminal suspects during at least nine separate police operations from 2012 to 2015 as part of a scheme to obscure police corruption as well as a means to receive awards and promotions. Fourteen PNP regular police officers remained in preventive detention, eight in prison and six under house arrest, awaiting trial for their roles in one of the operations.

The Shining Path domestic terrorist group conducted several terrorist acts during the year that caused the injury and death of security force members and civilians, including the August 21 killing of a husband, wife, and adult son in a small town located in the remote region of Junin. Shining Path terrorists conducted two

separate attacks on police and military contingents in June, killing four police officers and wounding several others.

On September 11, the National Criminal Court sentenced 10 former leaders of the Shining Path to life in prison for committing the 1992 Tarata Street bombing that killed 25 persons in Lima. The court postponed sentencing an 11th leader, Moises Limaco, who fled the country in 2014, and cleared a 12th, Elizabeth Cardenas.

### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

The Ministry of Justice's Directorate for Disappeared Persons oversees the recovery, identification, and return of remains of the approximately 13,000-20,000 persons who disappeared during the internal conflict of 1980-2000. To expedite this effort, President Vizcarra signed a law on September 7 to create a genetic database to identify and recover disappeared victims' remains.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits such practices. Local nongovernmental organizations (NGOs), however, and the Human Rights Ombudsman's Office reported that torture by police occurred and stated the government did not effectively prevent and punish those who committed such abuses. In a June report, the Human Rights Ombudsman's Office identified 174 cases of police-related torture and abuse between March 2017 and April 2018. The incidents occurred nationwide, across all police units, but without any apparent pattern and were not found to be the result of a government policy.

According to the local NGO Human Rights Commission, many victims did not file formal complaints about their alleged torture, and those who did so purportedly had difficulty obtaining judicial redress and adequate compensation. Transgender women reported to NGOs that municipal police in metropolitan Lima committed acts of extortion, violence, and degrading treatment against them.

### **Prison and Detention Center Conditions**

Prison conditions were generally harsh due to overcrowding, poor sanitation, inadequate nutrition and health care, and corruption among guards, which included

guards smuggling weapons and drugs into the prisons. Guards received little to no training or supervision.

Physical Conditions: As of June the National Penitentiary Institute reported the system had 87,995 prisoners in 69 facilities designed for 39,156 prisoners. Examples of particularly overcrowded prisons included the San Juan de Lurigancho men's prison, which held 9,969 prisoners in a facility designed for 3,204, and the Santa Monica women's prison in Chorrillos, which held 746 prisoners in a facility designed for 450.

Prison guards and fellow inmates reportedly abused prisoners. Inmates killed fellow prisoners during the year, for which they received additional prison sentences for murder.

Inmates had intermittent access to potable water, bathing facilities were inadequate, kitchen facilities were unhygienic, and prisoners often slept in hallways and common areas for lack of cell space. Prisoners with resources had access to cell phones, illegal drugs, and better meals prepared outside the prison; prisoners who lacked funds experienced much more difficult conditions.

Most prisons provided access to basic medical care, but there was a shortage of doctors, and inmates complained of having to pay for medical attention. Tuberculosis and HIV/AIDS reportedly remained at near-epidemic levels. The Ombudsman's Office reported insufficient accessibility and inadequate facilities for prisoners with disabilities. Prisons lacked specialized medical equipment needed for prisoners with disabilities, such as wheelchairs and hospital transfer beds. Limited access to adequate psychological care for prisoners with mental disabilities was reported.

Administration: Independent and government authorities conducted proper investigations of credible allegations of mistreatment.

Independent Monitoring: The government permitted monitoring visits by independent human rights and international humanitarian law observers. International Committee of the Red Cross officials made unannounced visits to inmates in 12 different prisons and detention centers. During the year, the Ombudsman's Office representatives made 47 visits to Lima and provincial prisons.

#### **d. Arbitrary Arrest or Detention**

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements. The government constitutionally suspended the right to freedom from arrest without warrant in designated emergency zones.

### **Role of the Police and Security Apparatus**

The PNP is responsible for all areas of law enforcement and internal security, including migration and border security. The PNP functions under the authority of the Ministry of Interior. The armed forces are responsible for external security under the authority of the Ministry of Defense. The armed forces have limited domestic security responsibilities, particularly in the Valley of the Apurimac, Ene, and Mantaro Rivers (VRAEM) emergency zone.

Civilian authorities maintained effective control over the military and police forces, and the government had effective mechanisms to investigate and punish abuses. Corruption and a high rate of acquittals, however, in civilian courts for military personnel accused of crimes remained serious problems. The Public Ministry conducted investigations, although access to evidence held by the Ministry of Defense was not always forthcoming. The Ombudsman's Office can also investigate cases and submit conclusions to the Public Ministry for follow-up.

The Ministries of Interior and Defense employed internal mechanisms to investigate allegations of security force abuse. The Ministry of Interior's Office of Inspector General reported it disciplined approximately 1,400 police officers from January to September, compared with over 33,000 in the first eight months of 2017. Analysts attributed the apparent dramatic decrease in PNP disciplinary actions during the year to the fact that there were an unusually high number of disciplinary actions the previous year, which were the result of reforms the Interior Ministry implemented in 2017.

Police continued operating under a use-of-force doctrine adopted in 2015. When a police action causes death or injury, the law requires an administrative investigation and notification to the appropriate oversight authorities. The law is applicable to all police force members and defines the principles, rules, situations, and limitations for police use of force and firearms.

### **Arrest Procedures and Treatment of Detainees**

The law requires a written judicial warrant based on sufficient evidence for an arrest, unless authorities apprehend the alleged perpetrator of a crime in the act. Only judges may authorize detentions. Authorities are required to arraign arrested persons within 24 hours, except in cases of suspected terrorism, drug trafficking, or espionage, for which arraignment must take place within 15 days. In remote areas, arraignment must take place as soon as practicable. Military authorities must turn over persons they detain to police within 24 hours. Police must file a report with the Public Ministry within 24 hours after an arrest. The Public Ministry, in turn, must issue its own assessment of the legality of the police action in the arrest, and authorities respected this requirement.

The law permits detainees access to family members and a lawyer of their choice. Police may detain suspected terrorists incommunicado for 10 days.

Pretrial Detention: Lengthy pretrial detention continued to be a problem. As of June, judicial authorities had sentenced 52,966 of the 87,995 detainees held in detention facilities and prisons. The length of pretrial detention occasionally equaled, but did not exceed, the maximum sentence of the alleged crime. Delays were due mainly to judicial inefficiency, corruption, and staff shortages. In accordance with the law, courts released prisoners held more than nine months (up to 36 months in complex cases) whom the justice system had not tried and sentenced. The courts factored pretrial detention into final sentences.

### **e. Denial of Fair Public Trial**

The constitution provides for an independent judiciary. Some NGOs and other advocates alleged the judiciary did not always operate independently, was not consistently impartial, and was sometimes subject to political influence and corruption.

In July the media released audiotaped phone conversations of judges implicating themselves in influence peddling, which included court decisions. Immediately following the scandal, President Vizcarra implemented measures to address judicial corruption.

Authorities generally respected court orders from the judiciary.

### **Trial Procedures**

The law provides for the right to a fair and public trial, and the judiciary generally enforced this right, although reports of corruption in the judicial system were common. The government continued the implementation, begun in 2006, of the transition from the inquisitorial to the accusatory legal system and the application of a new criminal procedure code designed to streamline the penal process. As of October the government had initiated the transition and introduced the code in 31 of the 34 judicial districts, although implementation in the largest judicial districts--Lima and South Lima--remained pending.

The law presumes all defendants are innocent. The government must promptly inform defendants in detail of the charges against them and provide defendants a trial without undue delay. Defendants also have the right to be present at their trial and to communicate with an attorney of their choice or have one provided at public expense. State-provided attorneys, however, often had poor training. Although the law grants citizens the right to trial in their own language, interpreting and translation services for non-Spanish speakers were sometimes unavailable. This deficiency primarily affected indigenous persons living in the highlands and Amazon regions.

The law gives all defendants the right to adequate time and facilities to prepare for their defense. Defendants have the right to confront adverse witnesses and present their own witnesses and evidence. The government cannot compel defendants to testify or confess to a crime. Defendants may appeal verdicts to a superior court and ultimately to the Supreme Court. The Constitutional Tribunal may rule on cases involving issues such as habeas corpus or the constitutionality of laws.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees during the year.

### **Civil Judicial Procedures and Remedies**

Citizens may seek civil remedies for human rights violations, but court cases often take years to resolve. Press reports, NGOs, and other sources continued to allege that persons outside the judiciary frequently corrupted or influenced judges.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The law prohibits such actions, and there were no reports that the government failed to respect these prohibitions. The government's continued declaration of an emergency zone in the VRAEM, due to drug trafficking and criminal activity, suspended the right to home inviolability.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

The constitution provides for freedom of expression, including for the press, and the government generally respected this right. An independent press and a functioning democratic political system generally promoted freedom of expression, including for the press.

Violence and Harassment: Journalists alleged police, protesters, and company personnel assaulted and threatened them while covering various protests and incidents of social unrest. The Press and Society Institute reported the most common type of threat was made against local radio and television broadcast journalists who investigated local government authorities for corruption. The institute alleged the aggressors were often local and regional government officials, such as mayors and regional governors.

Police continued to investigate the 2016 killing of radio journalist Hernan Choquepata Ordonez in the coastal province of Camana, Arequipa Region. Reports suggested Choquepata was killed after he criticized mayors of the municipalities of Camana and Mariscal Caceres.

Censorship or Content Restrictions: NGOs continued to report that some media, most notably in the provinces outside of Lima, practiced self-censorship due to fear of local government reprisal.

Nongovernmental Impact: Some media reported narcotics traffickers and persons engaged in illegal mining activities threatened press freedom by intimidating journalists who reported information that undermined their operations.

## **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private online communications without appropriate legal authority.

The International Telecommunication Union reported that 49 percent of the population used the internet in 2017.

### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

### **b. Freedoms of Peaceful Assembly and Association**

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

#### **Freedom of Peaceful Assembly**

The law does not require a permit for public demonstrations, but organizers must report the type of demonstration planned and coordinate its intended location to the appropriate regional representative. The government continued to suspend freedom of assembly in the VRAEM emergency zone, where armed elements of the Shining Path and drug traffickers operated, as well as in regions suffering from crime and public health crises.

The government may restrict or prohibit demonstrations in specific times and places to assure public safety or health. Police used tear gas and occasional force to disperse protesters in various demonstrations. Although most demonstrations were peaceful, protests in some areas turned violent, resulting in two deaths and multiple injuries in February (see section 6, Other Societal Violence and Discrimination).

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR), International Organization for Migration (IOM), and other

humanitarian organizations to provide protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

In-country Movement: The government maintained an emergency zone in the VRAEM and parts of four regions, where it restricted freedom of movement in an effort to maintain public peace and restore internal order.

Narcotics traffickers and Shining Path members at times interrupted the free movement of persons by establishing roadblocks in sections of the VRAEM emergency zone. Individuals protesting against extractive industry projects also occasionally established roadblocks throughout the country.

### **Internally Displaced Persons (IDPs)**

The situation of former IDPs was difficult to assess. According to UNHCR, the number of IDPs was unknown, since officials registered relatively few.

The governmental Reparations Council continued to assist victims of the 1980-2000 internal conflict with the Shining Path and the Tupac Amaru Revolutionary Movement terrorist groups. The Quechua and other Andean indigenous populations were disproportionately represented among IDPs, since the conflict took place primarily within the Andean region. The council continued to compile a registry of victims and identify communities eligible for reparations. Some victims and family members lacking proper identity documents experienced difficulties registering for reparations.

### **Protection of Refugees**

The government, UNHCR, IOM, and civil society organizations estimated nearly 100,000 foreigners, mostly Venezuelans, resided in the country under irregular circumstances. The number of Venezuelans entering the country continued to increase, reaching more than 600,000 as of November, from fewer than 5,000 in 2015. The government created temporary residence permits for Venezuelans, enabling them to reside and work in the country legally. The government had granted temporary residence permits to approximately 92,000 Venezuelans who entered between February 2017 and September 2018. Local authorities reported approximately 694,000 Venezuelans entered from Ecuador between January and October. Of these Venezuelan entrants, 71 percent declared (over 491,000) their

final destination was Peru and the remainder (over 202,000) departed for Chile, Argentina, and Uruguay.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The government cooperated with UNHCR and recognized the Catholic Migration Commission as the official provider of technical assistance to refugees. The commission also advised citizens claiming a fear of persecution who sought asylum. The government provided protection to refugees on a renewable, year-to-year basis, in accordance with commission recommendations. Asylum requests continued to grow, from approximately 400 cases in 2015 to more than 130,000 as of September. Approximately 97 percent of the asylum requests during the year came from Venezuelan citizens.

Durable Solutions: The government does not have a resettlement program, but it received persons recognized as refugees in other nations and provided some administrative support toward their integration. UNHCR provided such refugees humanitarian and emergency aid, legal assistance, documentation, and, in exceptional cases, voluntary return and family reunification.

Temporary Protection: As of September, the government provided temporary protection to more than 130,000 individuals awaiting a decision on their refugee status. The government provided these individuals temporary residence permits and authorization to work.

### **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

#### **Elections and Political Participation**

Recent Elections: Pursuant to the constitution, in March First Vice President Martin Vizcarra assumed the presidency following the resignation of Pedro Pablo Kuczynski. Kuczynski had assumed the presidency in July 2016 after a second round of presidential elections. Domestic and international observers declared the nationwide elections--held in April (for president, the National Congress, and the Andean Parliament) and in June (a second round for the presidential race only)--to be fair and transparent, despite controversy over the exclusion of two presidential candidates for administrative violations of election-related laws. President

Kuczynski resigned in March, a few days before his impeachment hearing on corruption allegations.

The first round of regional elections for governorships and municipal offices was held on October 7. Domestic and international observers declared the peaceful elections free and fair. The second round of run-off elections for 16 gubernatorial races took place on December 9.

Political Parties and Political Participation: By law, groups that advocate the violent overthrow of the government and express ideologies incompatible with democracy cannot register as political parties.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials; however, the government did not always implement the law effectively, and officials often engaged in corrupt practices with impunity. There were numerous reports of corruption by government officials during the year. Citizens continued to view corruption as a pervasive problem in all branches of national, regional, and local governments.

Corruption: Several high-profile political figures were under investigation for corruption. Released from pretrial detention in April, former president Ollanta Humala and first lady Nadine Heredia remained under investigation on money-laundering and corruption charges. The government requested the extradition of former president Toledo from the United States for allegedly accepting bribes during his administration. The Public Ministry opened an investigation into former president Kuczynski's alleged involvement in buying votes to avoid impeachment as well as his ties to bribery by Brazilian construction firms seeking local public works contracts. A judge ordered former presidential candidate Keiko Fujimori to pretrial detention in October for allegedly managing the laundering of illegal campaign contributions.

There were allegations of widespread corruption in the judicial system. The government launched an investigation following July media reports of a judicial scandal involving allegations of influence peddling and graft by various judges at all levels. The president of the judiciary resigned in July because he failed to

identify and respond to the corruption. President Vizcarra proposed new constitutional and legislative reforms to combat corruption, including a new system for selecting judges. In October Congress approved Vizcarra's corruption reform agenda. The electorate overwhelmingly supported the president's agenda in a December 9 referendum, voting in favor of reform of the National Council of Magistrates to select judges in a public process based on merit, more transparent political party financing, and ending immediate re-election of legislators, and against a question on a return to a bicameral Congress. Although the new criminal procedure code was not fully implemented in Lima, the government applied the code to corruption cases in all the judicial districts.

PNP officials at all levels were implicated in corruption scandals during the year. In September authorities arrested PNP General Jose Antonio Figueroa, who was accused of receiving bribes in exchange for the protection of an organized criminal group in Lima. Four other PNP generals were suspected of supporting the same group in exchange for monthly bribes.

In August a superior criminal court sentenced a former National Penitentiary Institute vice president and two other high-level officials to 13 years in prison for bribing judges on behalf of a criminal gang and providing favors to imprisoned gang members, including early releases.

Financial Disclosure: Most public officials must submit personal financial information to the Office of the Comptroller General prior to taking office and periodically thereafter. The comptroller monitors and verifies disclosures, but the law was not strongly enforced. Administrative sanctions for noncompliance range from 30-day to one-year suspensions, include bans on signing government contracts, and culminate with a ban from holding government office. The comptroller makes disclosures available to the public. A 2016 law enabled the Superintendency of Banks' Financial Intelligence Unit to access individual or corporate tax records and bank accounts for public officials under investigation for money laundering and other crimes. As of October the government, however, had not implemented this law. The comptroller reported only 22 audits were conducted for the 50,000 public official disclosures in 2017.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on

human rights cases. Government officials were somewhat cooperative and responsive to their views.

Human rights activists continued to express concern for their safety while working in areas with social unrest, including in the regions of Cajamarca, Cusco, Madre de Dios, and Arequipa, where social conflicts existed, particularly over natural resource extractive activities. They also alleged locally elected government authorities harassed activists, especially in areas where officials faced corruption charges and links to criminal activities. The activists claimed the slow, ineffective process for sanctioning harassers essentially supported accusations of impunity.

**Government Human Rights Bodies:** The Ministry of Justice and Human Rights, and in particular the Vice Ministry of Human Rights and Access to Justice, oversees human rights issues at the national level. The Ministry of Interior and the Ministry of Women and Vulnerable Populations also have significant human rights roles. These government bodies were generally considered independent and effective.

The independent Office of the Ombudsman (Defensoria del Pueblo) operated without government or party interference, and NGOs, civil society organizations, and the public considered it effective.

Congressional committees overseeing human rights included Justice and Human Rights; Women and the Family; Labor and Social Security; Andean, Amazonian, Afro-Peruvian Peoples and Environment and Ecology; Health and Population; and Social Inclusion and Persons with Disabilities.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

**Rape and Domestic Violence:** The law criminalizes rape of men and women, including spousal rape, with penalties of six to eight years in prison. The law defines femicide as the killing of a woman or girl based on gender. In July the government increased the minimum sentence for femicide to 20 years and to 30 years when the crime includes aggravating circumstances (e.g., crimes against minor, elderly, or pregnant victims). Enforcement of these laws, however, was often ineffective.

The law prohibits domestic violence; penalties range from one month to six years in prison. The law also authorizes judges and prosecutors to prevent a convicted spouse or parent from returning to the family home and authorizes the victim's relatives and unrelated persons living in the home to file complaints of domestic violence. The law requires a police investigation of domestic violence to take place within five days of a complaint and obliges authorities to extend protection to female victims of domestic violence. Enforcement of these laws, however, was lax.

Violence against women and girls--including rape, spousal abuse, and sexual, physical, and psychological abuse--were serious national problems. A National Institute of Statistics (INEI) survey found 68 percent of women suffered some form of gender-based violence in their lives. The Ministry of Women and Vulnerable Populations reported 43 femicides and 103 attempted femicides between January and April, a 26 percent and 39 percent increase, respectively, for the same period in 2017. In February, Jimena B., an 11-year-old girl, was abducted, raped, and killed in Lima. The alleged perpetrator, Cesar Alva Mendoza, was apprehended, placed in preventative detention, had several hearings, and awaited final trial as of November. He did not know the victim.

The Ministry of Women and Vulnerable Populations continued to operate service centers with police, prosecutors, counselors, and public welfare agents to help victims. NGOs expressed concerns about the program's quality and quantity, particularly in rural areas. The ministry operated a toll-free hotline and implemented projects to sensitize government employees and the citizenry to domestic violence. Following the abduction, rape, and killing of Jimena B., public protests called for more protection for children. In response, the PNP formed a family violence prevention unit to provide follow-up visits on domestic abuse and other criminal complaints.

The government continued to support temporary shelters, but NGOs and members of Congress stated there were not enough.

Sexual Harassment: Sexual harassment remained a serious problem. Sexual harassment is defined as unsolicited comments, actions, and touching of a sexual nature that is unwanted by the female or male victim. In December 2017 Congress passed a law that criminalized sexual harassment in the workplace. In September Congress revised the law, providing penalties of up to eight years in prison for sexual harassment. Sexual harassment is a labor rights violation subject to

administrative punishment as well. Government enforcement of laws against sexual harassment were minimally effective.

In October a court sentenced a man to three years in prison for sexual harassment, threats, and indecent proposals to a 15-year-old girl through social media. It was the first prison sentence handed down by a court for sexual harassment.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: The law provides for equality between men and women and prohibits discrimination against women with regard to marriage, divorce, pregnancy, pay, and property rights, but the government did not enforce the law effectively. While the law prohibits discrimination in employment and educational opportunities based on gender, there was a persistent underrepresentation of women in high-ranking positions, and the arbitrary dismissal of pregnant women and workplace discrimination was common. The law stipulates that women should receive equal pay for equal work, but women often were paid less than men. The INEI estimated that as of September, women received 71 percent of the average income of men.

## **Children**

Birth Registration: Citizenship is derived either by birth within the country's territory or from one's parents. Problems with government registration of births continued in remote areas of the country, although the government made significant progress in promoting registration.

Obtaining a national identity document requires a birth certificate, which was a problem in the most remote rural areas, where many births occurred at home and were not registered. As a result poor indigenous women and children disproportionately lacked identity documents as they were less able than men to travel outside these remote areas to obtain the documents. Undocumented citizens faced social and political barriers to accessing government services, including running for public office or holding title to land. Government representatives and NGOs assessed that undocumented citizens were particularly vulnerable to labor exploitation, human trafficking, and crime.

Child Abuse: Violence against and sexual abuse of children were serious nationwide problems. The country strengthened its laws in 2017 and 2018 to

protect minor girls and boys without parents or guardians as well as children living in at-risk, poor households. The law mandates government safeguards for vulnerable children, including access to education, health, and housing at Ministry of Women and Vulnerable Populations operated residential shelters, to reduce their susceptibility to sexual exploitation, child labor, and human trafficking. The law requires all government authorities, courts, and social service institutions to use the “best interests of the child” standard in all decisions affecting these children. The Peruvian Penal Code imposes stiff prison sentences for promoting child prostitution, abusing minors, and trafficking in children.

The government supported overnight shelters. Provincial or district governments operated approximately one-half of the offices to assist victims, while schools, churches, and NGOs ran the others. Law students continued to staff the units, particularly in rural districts. When these offices could not resolve disputes, officials usually referred cases to the Public Ministry’s local prosecutor offices, whose adjudications had the same force as court judgments.

Early and Forced Marriage: The legal minimum age of marriage is 18. The law allows minors older than 16 to marry with civil judge authorization.

Sexual Exploitation of Children: The law prohibits exploiting children in prostitution and penalizes promoters with a minimum of 15 years in prison. The law prohibits child pornography, and the penalty for conviction of involvement in child pornography is four to 12 years’ imprisonment and a fine. Government officials, police, NGOs, civil society leaders, and journalists identified numerous cases of child prostitution during the year. The country remained a destination for child sex tourism.

While the country has strong laws to protect children, it frequently had serious problems with enforcement. Media for example, frequently reported on the sexual exploitation of minor girls in the illicit gold mining sites of the remote Amazonian Madre de Dios region. In one broadly circulated article, Yaneth, a 14-year-old girl, was sent by her aunt to work as a waitress in a mining site’s bar-brothel. Within a few weeks of her arrival, Yaneth was forced into prostitution to pay off the cost of transporting her to the encampment. The police rescued Yaneth and she now resides in a Ministry of Women and Vulnerable Populations shelter. A local NGO estimated there are approximately 400 brothels in the Madre de Dios mining region, with hundreds of minor girls living in debt bondage and working 13-hour days as prostitutes.

The minimum age for consensual sex is 14. A conviction of rape of a minor younger than 14 carries penalties ranging from 25 years to life in prison. The law also prohibits adults from using deceit, abuse of power, or the vulnerability of a teenager to have sex with a minor under 18.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.html>.

### **Anti-Semitism**

Estimates of the Jewish population ranged from 3,000 to 4,000 persons. There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The law establishes infractions and sanctions for noncompliance. The law also provides for the protection, care, rehabilitation, security, and social inclusion of persons with disabilities; mandates that public spaces be free of barriers and accessible to persons with disabilities; and provides for the appointment of a disability rights specialist in the Ombudsman's Office. The law mandates the government make its internet sites accessible for persons with disabilities and requires the inclusion of sign language or subtitles in all educational and cultural programs on public television and in media available in all public libraries. The government generally did not effectively enforce these laws.

In September the government issued the General Law on People with Disabilities, requiring companies to improve their selection processes to enable persons with disabilities the opportunity to apply for jobs on equal terms. The law requires employers to provide employees up to 56 hours per year to accompany their disabled relatives to medical appointments. In August the Army implemented a pilot program to recruit persons with disabilities for military and civilian positions.

The initial military class included 15 soldiers who will receive cyber-security and administrative assignments following their initial training.

The government failed to enforce laws protecting the rights of persons with mental disabilities. NGOs and government officials reported the number of medical personnel providing services in psychiatric institutions was insufficient.

While government officials improved enforcement of the rights of persons with disabilities, the country's disability community still faced immense challenges due to inaccessible infrastructure, minimal access to education, insufficient employment opportunities, and discrimination, according to government and civil society leaders. The Ombudsman's Office reported approximately 87 percent of children with disabilities did not attend school and 76 percent of persons with disabilities did not work. One government survey reported that 70 percent of employers stated they would not hire a person with a disability.

### **National/Racial/Ethnic Minorities**

The law requires the government to treat all citizens equally and prohibits discrimination based on race, national origin, or language, and the government did not enforce the law effectively.

### **Indigenous People**

Indigenous communities remained politically, economically, and socially marginalized. There were reports of threats directed against indigenous leaders with respect to land grabs and illicit gold mining in the Amazon. Indigenous leaders expressed concerns that the national and regional governments did not adequately protect them and their property interests.

While the constitution recognizes indigenous persons have the right to own land communally, indigenous groups often lacked legal title to demarcate the boundaries of their lands. Amazonian indigenous peoples in particular continued to accuse the national government of delaying the final allocation of their land titles. By law, local communities retain the right of unassignability. Some indigenous community members, however, sold land to outsiders without the majority consent of their community.

The national government retains the subsurface mineral rights for land nationwide, which frequently caused disputes between the local indigenous communities,

national government, regional governments, and the various extractive interests. The law requires the government to consult with indigenous communities on proposed extractive projects or changes to ongoing extractive projects and to produce a detailed implementation plan to facilitate government and private-sector compliance; implementation of this law was somewhat effective. The law also requires the Ministry of Culture to establish a database of indigenous communities entitled to consultation. As of September the ministry had recognized 55 indigenous groups as being entitled to prior consultation. From 2014 to October the government initiated 24 prior consultations with various indigenous communities, which generated 487 agreements. Ten of the prior consultations had concluded, and 14 were ongoing.

Indigenous NGOs, legal experts, and the Ombudsman's Office continued to express concerns that indigenous communities did not have sufficient training to engage in consultations with the government and extractive industry.

Indigenous persons continued to face threats from narcotics traffickers and illegal miners and loggers who operated near or within their claimed land holdings.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The constitutional procedure code recognizes the right of individuals to file legal claims of discrimination based on sexual orientation or gender identity. Four of the regional governments (Piura, La Libertad, Loreto, and San Martin) have regulations that prohibit discrimination against lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals explicitly and provide for administrative relief, but not criminal sanctions.

Government officials, NGOs, journalists, and civil society leaders reported widespread official and societal discrimination against LGBTI persons in employment, housing, education, and health care on the basis of their sexual orientation or gender identity. NGOs continued to report that law enforcement authorities repeatedly failed to protect, and on occasion violated, the rights of LGBTI citizens. Police harassed and abused transgender women. For example, the local police in Lima frequently demanded that transgender women working as sex workers pay the police for protection, and physically harmed them if they did not pay.

The law does not provide transgender persons the right to obtain national identity documents that reflect their gender identity. Transgender persons, therefore, often did not have national identification cards, which consequently limited their access to government services.

### **HIV and AIDS Social Stigma**

Persons with HIV/AIDS faced discrimination and harassment, including societal discrimination for employment, housing, and general social inclusion. The Ministry of Health implemented policies to combat discrimination based on HIV/AIDS status. HIV/AIDS affected transgender women disproportionately, and many of them could not obtain health care because they lacked national identification cards reflecting their gender and appearance.

### **Other Societal Violence or Discrimination**

The Ombudsman's Office reported 134 active social-conflict cases as of August, compared with 109 in August 2017. The report found most conflicts involved socioenvironmental issues, with mining-related incidents accounting for 68 percent of the cases.

Two potato farmers died and dozens of others were wounded during several February clashes between protesting farmers and police in the Pasco and Huancavelica regions. Three police officers were also injured, and authorities arrested three farmers. The farmers had demanded the national government declare an agricultural emergency to help them sell their crops. After resolving the conflict, the government launched an investigation into the two deaths.

Police opened an investigation in January of the December 2017 killing of environmental activist Jose Napoleon Tarrillo. Media reported that land invaders killed Tarrillo for his efforts to protect the Chaparri Ecological Reserve in the Chiclayo region. Tarrillo's wife informed police she had received death threats for pursuing her husband's case with the authorities.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

With certain limitations, labor laws and regulations provide freedom of association, the right to strike, and collective bargaining. The law prohibits

employer intimidation and other forms of antiunion discrimination and requires reinstatement of workers fired for union activity, unless they opt to receive compensation instead. Regulations allow workers to form unions without seeking prior authorization. The minimum membership required by law to form a union is 20 employees for a workplace-level union and 50 employees for a sector-wide union, which some labor activists viewed as prohibitively high in some instances, particularly for small and medium-sized enterprises. The use of consecutive short-term contracts in some nontraditional export sectors, such as textiles and apparel, made the exercise of freedom of association and collective bargaining difficult.

The law allows unions to declare a strike in accordance with their governing documents. Private-sector workers must give advance notice of at least five working days, and public-sector workers must give at least 10 days' notice. The law also allows nonunion workers to declare a strike with a majority vote as long as the written voting record is notarized and announced at least five working days prior to a strike. Unions in essential services are permitted to call a strike but must provide 15 working days' notice, receive the approval of the ministry, obtain approval of a simple majority of workers, and provide a sufficient number of workers during a strike to maintain operations. Private enterprises and the public institutions cannot fire workers who strike legally.

The law requires businesses to monitor their contractors with respect to labor rights and imposes liability on businesses for the actions of their contractors. The law governing the general private-sector labor regime sets out nine categories of short-term employment contracts that companies may use. The law sets time limits for each of the categories and contains a five-year overall limit on the consecutive use of short-term contracts. A sector-specific law covering the textile and apparel nontraditional export sectors exempts employers from this five-year limit and allows employers to hire workers on indefinite short-term contracts, without requiring a conversion to the permanent workforce.

Although the Ministry of Labor and its National Superintendency of Labor Inspection (SUNAFIL) received budget increases in 2017 and 2018, resources remained inadequate to enforce freedom of association, collective bargaining, and other labor laws. In July Congress passed a law to merge the regional labor inspectors and Ministry of Labor inspectors with SUNAFIL. As of September SUNAFIL reported having 636 labor inspectors and to have budgeted for the hiring of an additional 216 inspectors by the end of the year. SUNAFIL opened a new labor inspection office in Puno in May. As of October SUNAFIL had offices in 16 of the 24 regions.

Penalties for violations of freedom of association and collective bargaining range from 7,400 to 74,000 soles (\$2,280 to \$22,800). Such penalties were insufficient to deter violations and, according to labor experts and union representatives, were rarely enforced. Workers continued to face prolonged judicial processes and lack of enforcement following dismissals resulting from trade union activity.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, but the government did not effectively enforce the law.

Resources, inspections, and remediation were inadequate for effective enforcement of the law. The law prescribes penalties of eight to 25 years' imprisonment for labor trafficking, although the government did not report statistics on convictions and sentences for forced labor during the year. Financial penalties for violations range from 7,400 to 74,000 soles (\$2,280 to \$22,800) but were insufficient to deter violations.

SUNAFIL officials conducted inspections to identify forced labor. The Ministry of Labor and SUNAFIL provided training sessions to SUNAFIL and regional labor inspectors around the country to raise awareness of forced labor and the applicable law. The government continued to implement the 2013-17 national plan to combat forced labor during the year. The government approved a new *National Plan of Action against Trafficking in Persons 2017-21* in June 2017. The plan addresses forced labor as human trafficking with an emphasis on the needs of victims through a dedicated Victim Reintegration Plan.

Thousands of persons remained subject to conditions of forced labor, mainly in mining, forestry, agriculture, brick making, and domestic service. There were reports that men and boys were subjected to bonded labor in mining (including gold mining), forestry, and brick making, while women were most often found working under conditions of domestic servitude. Both men and women reportedly worked in bonded labor in agriculture.

In July a court sentenced the husband and wife who operated a workshop to preventive detention. As of October the husband remained in jail, and his wife was under house arrest, pending trial. A fire in June 2017 in downtown Lima exposed the informal counterfeit lightbulb workshop, which allegedly engaged in human

trafficking for forced labor exploitation. Two workers were locked in the workshop; one, a 17-year-old minor, died in the fire.

In September the PNP reported it rescued 1,077 human trafficking victims (sexual exploitation and forced labor) during multiple police operations from January to September. The rescued victims included 130 foreign women, mostly Venezuelans with some Ecuadorians and Bolivians. The police conducted the operations in Madre de Dios, Piura, Tumbes, and Lima.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The legal minimum age for employment is 14, although children between the ages of 12 and 14 may work in certain jobs for up to four hours per day. Adolescents between the ages of 15 and 17 may work up to six hours per day, if they obtain special permission from the Ministry of Labor and certify that they are attending school. In certain sectors of the economy, higher age minimums existed: 15 in nonindustrial agriculture; 16 in industry, commerce, and mining; and 17 in industrial fishing. The law specifically prohibits the hiring of minors in a number of occupations considered hazardous for children, including working underground, lifting or carrying heavy weights, accepting responsibility for the safety of others, and working at night. The law prohibits work that jeopardizes the health of children and adolescents; puts their physical, mental, and emotional development at risk; or prevents regular attendance at school.

A permit from the Labor Ministry is required for persons under 18 to work legally. Parents must apply for the permits, and employers must have a permit on file to hire a minor.

The Ministry of Labor and SUNAFIL are responsible for enforcing child labor laws, but enforcement was not effective, especially in the informal sector in which the majority of child labor occurred. The ministry and SUNAFIL lacked the resources needed to execute necessary inspections, and inter-ministerial coordination was often lacking. Inspectors conducted visits without notice to areas where persons or organizations had reported child labor problems. By law the penalties for illegal child labor include fines from 192,500 soles (\$59,400) for microbusiness to 385,000 soles (\$118,800) for small and medium-sized businesses

and 770,000 soles (\$237,600) for larger enterprises. In addition to these fines, violators are subject to civil and criminal legal proceedings.

The Labor Ministry continued its “Vamos Peru” (Let’s Go, Peru) program, focused on job training, technical assistance to entrepreneurs, and job placement, and the “Peru Responsable” (Responsible Peru) program, aimed at fostering corporate social responsibility and creating formal employment for youth. The ministry continued to implement its national strategy to combat child labor, including projects in Junin, Huancavelica, Pasco, Carabayllo, and Huanuco, which focused on reducing child labor by improving educational services, providing mechanical tools, and providing cash transfers to families in rural areas.

The Office of the Ombudsman for Children and Adolescents (DEMUNA) worked with the Labor Ministry to document complaints regarding violations of child labor laws. DEMUNA operated a decentralized child labor reporting and tracking system. The Ministry of Women and Vulnerable Populations administered a program that sent specialized teachers to the streets to provide education and support to minors involved in begging and street vending. The ministry continued to implement the Yachay program, which assists homeless children ages six to 17 with workshops, health care, education, legal services, and scholarships.

A 2016 government child labor report found more than two million children in the five-to-17 age group worked, a rate of more than 26 percent. The report noted child labor rates tracked closely with high poverty rates, with several of the rural highland regions having child labor rates above 50 percent: 67 percent for Huancavelica, 63 percent for Cajamarca, 54 percent for Cusco, and 51 percent for Puno. Some coastal regions had child labor rates below 10 percent, such as Callao with 4 percent, Lima with 6 percent, and Ica with 9 percent. The report also found child labor predominately occurred in rural, agricultural areas (46 percent), in contrast to urban centers (13 percent). The report noted that children engaged in the worst forms of child labor, including mining and in commercial sexual exploitation, sometimes as a result of human trafficking.

Representatives from the Labor Ministry, NGOs, and labor unions reported counterfeit U.S. currency cases that involved child labor. The ministry, NGOs, and labor activists reported the use of child labor in rice production on plantations in the Tumbes Region.

Also, see the Department of Labor’s *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

#### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits discrimination with respect to employment based on race, color, sex, religion, political opinion, national origin, citizenship, social origin, disability, age, language, or social status. The law does not specifically identify discrimination based on sexual orientation or gender identity, HIV-positive status, or other communicable diseases. The law prohibits discrimination against domestic workers and any requirement by employers for their domestic workers to wear uniforms in public places. The law establishes the following employment quotas for persons with disabilities: 3 percent for private businesses with more than 50 employees and 5 percent for public-sector organizations. The National Council for the Integration of Persons with Disabilities oversees compliance with employment quotas for persons with disabilities.

The government did not effectively enforce the law. Penalties for violations include fines and imprisonment, but they were not sufficient to deter violations. NGOs and labor rights advocates noted that discrimination cases often went unreported to authorities.

Societal prejudice and discrimination led to disproportionate poverty and unemployment rates for women. Women were more likely to work in the informal sector or in less secure occupations, such as domestic service, factory work, or as street vendors, and they were more likely to be illiterate due to lack of formal education.

#### **e. Acceptable Conditions of Work**

In April the government increased the statutory monthly minimum wage for formal workers from 850 soles (\$265) to 930 soles (\$290) per month. The INEI estimated the poverty line to be 315 soles (\$97) a month per person, although it varied by region. The average monthly income, set in September 2016, was 1,640 to 1,867 soles (\$505-\$575) for men and 1,352 soles (\$415) for women. The INEI reported the average monthly income in 2017 for Lima was 1,667.30 soles (\$521). The government did not effectively enforce wage laws and penalties were not sufficient to deter violations of minimum wage standards.

The law provides for a 48-hour workweek for formal workers and one day of rest. There is no prohibition on excessive compulsory overtime, nor does the law limit the amount of overtime that a worker may work. The law stipulates 15 days of

paid annual vacation.

The Occupational Health and Safety (OHS) Standards are appropriate for the main industries. SUNAFIL is responsible for the enforcement of OHS standards. The government did not devote sufficient resources and personnel to enforce OHS standards.

Fines for labor violations were last increased in April 2014. Noncompliance with the law is punishable by fines of 7,400 to 74,000 soles (\$2,280 to \$22,800). In July 2014, however, the government enacted a three-year decree that reduced fines on employers for labor violations to no more than 35 percent of the maximum fine established by law. The government renewed that decree in 2017 for another three years. The reduction is limited to fines for occupational safety and health violations that did not result in death or permanent injury of the worker and violations of laws related to freedom of association and workplace discrimination determined not to be “very serious.” The reduction does not apply to violations that “very seriously affect” freedom of association, union formation, and workplace discrimination; violations related to child labor or forced labor; violations of occupational and safety norms that result in death or permanent disability of the worker; actions that impede labor inspections; and recidivist conduct, defined as repeat violations within a six-month period from the time a final decision on the first infraction was issued. The reductions, however, do not apply to violations of fundamental labor rights. Many fines went uncollected, in part because the government lacked an efficient tracking system and at times due to a lack of political will, according to a local labor NGO and labor experts.

The law provides for fines and criminal sanctions for occupational safety and health violations. In cases of infractions, injury, or deaths of workers or subcontractors, the penalty is one to four years’ imprisonment. Criminal penalties are limited to those cases where employers “deliberately” violated safety and health laws and where labor authorities had previously notified employers who chose not to adopt measures in response to a repeated infraction. The law requires that a worker prove an employer’s culpability to obtain compensation for work-related injuries.

Representatives of labor, business, and the government reported that the majority of companies in the formal sector generally complied with the law. Many workers in the informal economy, approximately 70 percent of the total labor force, received less than the minimum wage, although most were self-employed.