

# **ECUADOR 2019 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Ecuador is a constitutional, multiparty republic with an elected president and unicameral legislature. In 2017 voters elected President Lenin Moreno from the ruling party Alianza PAIS (Proud and Sovereign Fatherland) and chose members of the National Assembly in elections that were generally free and fair, marking a successful democratic transfer of power.

The National Police maintains internal security and law enforcement and is under the authority of the Ministry of Government (formerly the Ministry of Interior until August 1). The military is under the supervision of the Ministry of Defense and is responsible for external security. Police and military share responsibility for border enforcement. Migration officers are civilians and report to the Ministry of Government. Civilian authorities maintained effective control over the security forces.

Significant human rights issues included reports of torture and abuse by police officers and prison guards; harsh and life-threatening prison conditions; the existence of criminal libel laws; violence against women; and the use of child labor.

The government took steps to investigate and prosecute officials who committed human rights abuses, as it engaged in efforts to strengthen democratic governance, fight corruption, and promote respect for human rights.

### **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 that the government or its agents committed arbitrary or unlawful killings.

An international human rights organization reported in March that a special prosecutorial unit, created in 2010 to investigate cases documented by a truth commission, found 68 extrajudicial executions between 1984 and 2008; final rulings were rendered in two cases as of August 1.

On June 19, the Provincial Court of Imbabura sentenced police officer David Velastegui to three years and four months in prison for “overreaching in the execution of an act of service.” In August 2018 Velastegui shot an Afro-Ecuadorian man during a scuffle.

On July 3, the Office of the Public Prosecutor announced the investigation into the 2010 killing of Air Force commanding general Jorge Gabela would continue under a new line of investigation. General Gabela was an outspoken critic of the then Correa administration’s plan to purchase Indian-made Dhruv helicopters in 2007 and 2008. Multiple Dhruv helicopters subsequently crashed due to mechanical failure, killing several persons, before the government withdrew the helicopters from service.

### **b. Disappearance**

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

On March 13, the National Court of Justice sentenced former intelligence officers Raul Chicaiza and Jessica Falcon to one year in prison for the 2012 kidnapping of opposition legislator Fernando Balda. The acting attorney general recommended a reduced prison sentence in exchange for Chicaiza’s and Falcon’s cooperation in the investigation. Former president Rafael Correa and former national intelligence secretary Pablo Romero were called to testify at the trial, but the court suspended sentencing until Correa and Romero (both residing abroad) return to the country. In July 2018 the National Court of Justice ordered former president Correa’s pretrial detention and extradition from Belgium after he failed to appear before the court in Quito, as required under the terms of the court’s June 2018 decision to include him in the Balda kidnapping investigation. Interpol declined to issue a red notice for Correa’s arrest in December 2018. The extradition request remained in process as of November 21.3

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

While the constitution and the law prohibit torture and similar forms of intimidation and punishment, there were a few reports that police officers and prison guards tortured and abused suspects and prisoners.

On July 15, the Pichincha Provincial Court of Justice sentenced police officers David Altamirano and Freddy Fonseca to 10 and five years in prison, respectively,

for the crime of torture against high school student Angelo Ayol. The police officers illegally detained, beat, and tortured Ayol with a pointed object after he departed a school protest in 2014. In 2017 a court acquitted both officers, but the Provincial Court of Pichincha revoked the acquittal order in January 2018 and ordered them to stand trial for charges including torture.

In September 2018 digital magazine *Plan V* and the nonprofit Latin American Association of Human Rights published an investigation reporting 170 cases of torture and other cruel, inhuman, or degrading treatment between 2007 and 2017 by police and prison guards. Local human rights organizations reported torture continued to occur in prisons, especially at Eighth Rehabilitation Regional Prison Center (Guayas Province) and Turi Prison (Azuay Province).

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

Prison conditions were harsh and life threatening due to gang violence, official corruption, food shortages, gross overcrowding, harassment by security guards against prisoners and visitors, physical and sexual abuse, and inadequate sanitary conditions and medical care.

Physical Conditions: Media and official statistics indicated the prison population countrywide was 40 percent above the system's designated total capacity. A November 2018 study by prison officials reported 10 of the 36 national prison centers were overcrowded by more than 100 percent, while nine were more than 50 percent overcrowded. In May the daily newspaper *El Comercio* reported that 40 percent of the population in the 11 centers for juvenile offenders were adults.

Vice Minister of Interior Patricio Pazmino reported to the National Assembly that 49 inmates had died throughout the penitentiary system as of June 19. Media reported 20 prisoners had been killed during clashes between criminal gangs as of July 23. On June 12, gang members decapitated and burned a fellow prisoner in Eighth Rehabilitation Regional Prison Center in Guayas Province. Human rights organizations attributed increased violence in prisons to tension among gangs with links to drug cartels. A nongovernmental organization (NGO) reported criminal organizations operating within and outside of prisons intimidated, ordered, and executed the killing of prison staff. Media outlets reported former prison undersecretary Ricardo Camacho was stabbed 17 times at his residence October 16. Law enforcement detained a suspect in the attack, and the investigation remained pending.

On May 16, President Moreno declared a state of emergency for the nationwide penitentiary system to address the escalation of prison violence. Director of Prisons Ernesto Pazmino resigned on May 31 and was replaced by police general Edmundo Moncayo. Officials suspended all educational and recreational activities during the state of emergency. The government, acknowledging corruption among some prison staff, also ordered the presence of police inside prison centers and military personnel at the security perimeter and entry checkpoints of prisons. The state of emergency ended on August 16. During the state of emergency, the government acquired technological upgrades and reclassified and segregated inmates at facilities according to assessed threat levels.

Access to and quality of food, potable water, sanitation, heating and hot water, and medical care were inadequate. Officials verified that inmates did not have safe and permanent access to healthy food. In November 2018 government officials detected a deterioration of the water systems at prison facilities with noticeable difficulties in access to drinking water, especially at the Latacunga Rehabilitation Center. In some facilities health measures were sufficient only for emergency care.

On June 22, *Ecuavisa* news reported inmates' relatives in two Guayaquil-area prisons (Litoral Penitentiary and Eighth Rehabilitation Regional Prison Center) complained about the lack of medical supplies to treat basic medical conditions, including skin infections. They also reported penitentiary guards extorted prisoners' relatives to facilitate medical assistance to prisoners at the Eighth Rehabilitation Regional Prison Center. Inmates' relatives reported facility officials expected prisoners to buy provisions from the prison centers on a monthly basis, while prohibiting relatives from providing basic supplies purchased outside the prison to inmates, including clothing and toiletries.

Several human rights organizations reported that prison officials aided and abetted the smuggling of weapons and other prohibited items into prison centers.

In 2018 the government eliminated the Ministry of Justice, Human Rights, and Worship and transferred prison administration responsibilities to the National Comprehensive Service to Prisoners and Juvenile Offenders (SNAI) as part of a government reorganization and downsizing plan to reduce public spending. SNAI is responsible for the handling, monitoring, and policy implementation applicable to all prisoners. On June 3, President Moreno named retired police official Edmundo Moncayo Juaneda as SNAI director.

Administration: Authorities sometimes conducted investigations of credible allegations of mistreatment.

Some prison visits were suspended as part of the state of emergency in the penitentiary system. Human rights organizations continued to report that visitors faced degrading treatment during check-in at prison facilities, including the removal of clothing and illumination of genitalia by flashlights while forced to jump naked. Such treatment dissuaded relatives and religious officials from visiting prisons. Officials acknowledged detecting acts of corruption outside rehabilitation centers and at checkpoints to enter prison centers, as guards in some cases intentionally did not observe established inspection protocols.

Independent Monitoring: NGOs continued to report restrictions to monitoring by independent nongovernmental observers. According to the human rights NGO Permanent Committee for the Defense of Human Rights, authorities failed to respond to many requests by independent observers to visit prisons. Prison officials explained that monitoring groups' safety could not be guaranteed, especially during the state of emergency in the penitentiary system.

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

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, but there were reports that provincial and local authorities did not always observe these provisions. According to NGOs, illegal detentions continued to occur.

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

The law requires authorities to issue specific written arrest orders prior to detention, and a judge must charge a suspect with a specific criminal offense within 24 hours of arrest. Authorities generally observed this time limit, although in some provinces initial detention was often considerably longer. Detainees have the right to be informed of the charges against them. By law, if the initial investigation report is incriminating, the judge, upon the prosecutor's request, may order pretrial detention. Judges at times ordered a detainee's release pending trial with the use of ankle-monitoring bracelets.

Detainees have a constitutional right to an attorney. Those without financial means to pay for an attorney have the right to request a court-appointed attorney from the Public Defenders' Office. Although there were many available court-appointed

defenders, the number of cases and limited time to prepare for the defense continued to present a disadvantage during trials.

The law entitles detainees to prompt access to lawyers and family members, but NGOs continued to report delays depending on the circumstances and the willingness of local courts and prison guards to enforce the law.

Pretrial Detention: Corruption and general judicial inefficiency caused trial delays. Police, prosecutors, public defenders, and judges did not receive adequate training. In 2017 then justice minister Alvarado reported that 36 percent of inmates awaited sentencing. The length of pretrial detention did not usually exceed the maximum sentence for the alleged crime.

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

While the constitution provides for an independent judiciary, outside pressure and corruption impaired the judicial process. Legal experts, bar associations, and NGOs reported on the susceptibility of the judiciary to bribes for favorable decisions and faster resolution of legal cases. New Judicial Council members took office on January 29, while nine new Constitutional Court judges were sworn in by the National Assembly on February 5. These appointments followed the 2018 removal of leading members of the Judicial Council and Constitutional Court after an evaluation of judicial entities as mandated by a February 2018 referendum. On July 4, the Judicial Council officially notified all judges of the National Court of Justice they would be subject to an evaluation process, including an assessment of overall performance and quality of rulings. On November 15, the Judicial Council announced that 23 of the 36 judges evaluated did not meet the minimum threshold and would be replaced by temporary judges from lower courts appointed by the council.

A working group headed by a member of the Transitional Judicial Council published a report in December 2018 that noted the government's role in the prosecution of individuals tried for the 2010 police protest known as 30-S. The report concluded the prosecuted individuals were grossly denied due process because of the systematic criminalization of public protest and political pressure on public officials, including judges, and faulted prosecutors for mishandling evidence. The report suggested an accelerated review of all cases tried before the Constitutional Court, immediate reforms to the penal code, and formation of a National Assembly commission to further investigate particular cases mentioned in the report. The families of the five persons killed during 30-S (two police officers,

two military members, and a university student) continued to demand the government provide them full access to information and conduct a transparent follow-up investigation, as recommended in the report.

### **Trial Procedures**

The law provides for the right to a fair and public trial, although delays occurred frequently. The law presumes defendants innocent until proven guilty. Defendants have the right to be informed promptly of the charges in detail. The accused have the right to consult with an attorney or to have one provided and to appeal. Defendants have the right to free assistance from an interpreter, but some defendants complained about the lack of an interpreter at court hearings. Defendants have the right to adequate time and resources to prepare their defense, although in practice this was not always the case, and delays in providing translation services made this difficult for some foreign defendants. Foreigners also often faced a language barrier with their public defenders, which impaired their ability to present a defense. Defendants have the right to be present at their trial. The accused may also present evidence and call witnesses, invoke the right against self-incrimination, and confront and cross-examine witnesses.

Judges reportedly rendered decisions more quickly or more slowly due to political pressure or fear in some cases. There were reported delays of up to one year in scheduling some trials.

Criminal justice reforms aimed at reducing congested dockets in criminal cases produced “simplified” proceedings in pretrial stages, resulting in faster resolution of cases. Prisoners reported that after cases reached a higher court, lengthy delays ensued in setting dates for preliminary hearings.

The regular court system tried most defendants, although some indigenous groups judged members independently under their own community rules for violations that occurred in indigenous territory, as provided under the constitution.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

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

Civil courts and the Administrative Conflicts Tribunal, generally considered independent and impartial, handle lawsuits seeking damages for, or immediate ending of, human rights violations. Individuals and organizations may appeal adverse decisions domestically and to regional human rights bodies.

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

The law prohibits such actions, and there were no reports the government failed to respect these prohibitions.

**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, but other laws restrict this right. On February 20, reforms to the 2013 communication law went into effect, repealing several provisions seen as severely limiting freedom of expression and press. Experts cautioned, however, that other restrictive provisions to journalistic work found in the 2013 law remained in effect, including Article 5 characterizing media and communications as a public service (not a right) and a provision requiring all journalists to hold university degrees. Restrictive provisions found in other laws, such as punishing opinions as slander that carries a prison term of six months to two years, also remained in force.

Freedom of Expression: Individuals could usually discuss matters of general public interest publicly or privately without reprisal. The law prohibits citizens from using “discrediting expressions,” treated as a misdemeanor with a 15- to 30-day prison term. There were no reports the government invoked this law to restrict freedom of expression during the year.

Press and Media Freedom, Including Online Media: Independent media were active and expressed a wide variety of views, including those critical of the government.

On February 5, the independent watchdog organization Freedom House classified the country as partially free. Journalists continued to report harassment, particularly by supporters of the previous government or unknown persons, although attacks on reporters continued to decline.

The domestic freedom of expression watchdog group Fundamedios registered 289 attacks on freedom of expression from May 2018 to October 2019, compared with 491 attacks in 2016. As of October 14, Fundamedios quantified “attacks” ranging from court sentences against media or journalists (three instances); physical attacks or intimidation against journalists (104 instances); verbal threats and insults (47 instances); to cyberthreats, hacks, or closure of social media accounts (30 instances as of August). While the complete data did not link attacks to a perpetrator, no attacks in the data available were categorized as “abuses of power from the state.”

During violent protests against the government’s economic reforms between October 3-13, Fundamedios reported 116 attacks against journalists and media outlets, largely by demonstrators or other unknown persons, related to journalists’ coverage of events. Protesters attacked and attempted to burn the headquarters of the Teleamazonas television station and the *El Comercio* newspaper in Quito on October 12. Protesters in Quito held 27 journalists hostage on October 10, threatening them with violence if they did not provide live broadcasting of their demands; all of the journalists were released without physical harm.

The law limits the ability of media to provide election coverage during the official campaign period, with no coverage allowed whatsoever in the 48 hours before a national election. A constitutional court ruling affirmed the right of the press to conduct interviews and file special reports on candidates and issues during the campaign period, but the ruling left in place restrictions on “direct or indirect” promotion of candidates or specific political views.

The law includes the offense of inciting “financial panic” with a penalty of imprisonment for five to seven years for any person who divulges false information that causes alarm in the population and provokes massive withdrawals of deposits from a financial institution that place at risk the institution’s stability.

The law mandates the television and radio broadcast of messages and reports by the president and his cabinet free of charge. President Moreno reduced the amount of time required for presidential broadcasts to one 15-minute weekly program from the three- to four-hour weekly program by his predecessor.

Reforms to the 2013 communications law on spectrum allocations addressed past concerns about excessive spectrum being potentially allocated to state media. The reforms call for the redistribution of broadcast frequencies to divide media ownership between community media (up to 34 percent), private media and public media (up to 66 percent combined). Maximum figures under the reform are

subject to demand and availability. Nonetheless, the reforms limit the allocation of radio frequencies to the public sector to no more than 10 percent of the spectrum. On August 29, Minister of Telecommunications Andres Michelena announced the frequency redistribution process was underway.

Violence and Harassment: On June 28, supporters of then president Jose Tuarez of the Citizen Participation and Social Control Council (CPCCS) pushed and screamed at journalists from several media outlets while he participated in a press conference in Guayaquil. On July 5, Tuarez accused some media members of being “corrupt” during his official tour to Manabi Province. He further accused outlets of “media lynching” (see “Libel/Slander Laws” subsection below) over published stories that Tuarez altered his credentials to bolster his candidacy for the CPCCS presidency. Separately, Tuarez was removed from his position as CPCCS president by the National Assembly on August 15 for “breach of duties and lack of probity.”

Censorship or Content Restrictions: There were reports government officials tried to penalize those who published items critical of the government. On May 17, the Health Ministry’s National Agency of Sanitary Control (ARCSA) filed a criminal lawsuit against Luis Eduardo Vivanco and three other journalists from digital media outlet *La Posta*. ARCSA officials complained *La Posta* published “discrediting expressions” in an article alleging irregularities in medical supply acquisitions. President Moreno requested the resignation of ARCSA executive director Juan Carlos Galarza the same day, citing the criminal lawsuit against *La Posta*. The Communication Secretariat in the Office of the Presidency issued a statement noting it valued freedom of expression and would “not tolerate any stances against it.”

On October 8, police confiscated with a judicial warrant the transmitting equipment of Pichincha Universal, a public radio station under the control of the Prefecture of Pichincha, whose prefect was subsequently detained October 14 on charges of “rebellion,” based on the claim by the Public Prosecutor’s Office that the radio station violated the law by “inciting unrest” during violent antigovernment protests. The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) expressed concern on October 10 about the suspension of the radio station’s transmission, which “could constitute an act of censorship.” On October 25, a judge issued a preliminary injunction, and the radio station returned to the air.

Digital outlet *La Fuente* reported to Fundamedios that it had received an email, allegedly from someone in the Office of the Presidency, that its website was being suspended temporarily on July 11 due to alleged violations of copyright laws for using certain graphics without authorization in several of its reports. *La Fuente* resumed online operations the following day.

On February 25, a regional law firm reported that the reforms to the 2013 communications law repealed some prior censorship measures. For example, the reform introduced the concept of “self-regulation,” defined as the balance between responsibility and freedom of information, which media outlets must regulate through the drafting of voluntary codes of ethics.

The law imposes local content quotas on media, including a requirement that a minimum of 60 percent of content on television and 50 percent of radio content be produced domestically. Additionally, the law requires that advertising be produced domestically and prohibits any advertising deemed by a judge (as private individuals can initiate complaints against advertisers) to be sexist, racist, or discriminatory in nature. Furthermore, the Ministry of Public Health must approve all advertising for food or health products.

Libel/Slander Laws: Libel is a criminal offense under the law, with penalties of up to three years in prison, plus fines. The law assigns responsibility to media owners, who are liable for opinion pieces or statements by reporters or others, including readers, using their media platforms. February reforms to the 2013 communications law repealed a prohibition of “media lynching,” described as the “coordinated and repetitive dissemination of information, directly or by third parties through media, intended to discredit a person or company or reduce its public credibility.”

There was one report a government official used libel laws against a journalist. Esmeraldas Province authorities confirmed journalist Henry Cordova was detained on September 8 to serve a 20-day prison sentence in lieu of paying a \$5,000 fine, stemming from a November 2018 ruling in which Cordova was found guilty of libel against national assemblyperson at the time (now Esmeraldas prefect) Roberta Zambrano.

On September 11, the Constitutional Court overturned a 2012 ruling against *Diario La Hora*. The National Secretary of Public Administration argued in 2012 that the outlet published information (about the then government’s propaganda expenses) that hurt the institution’s reputation. The court’s September 11 decision

highlighted that only humans, not institutions, have rights. Legal experts argued the decision sets a precedent in favor of free speech.

Nongovernmental Impact: On April 16, President Moreno reported that a truth commission from the Attorney General's Office would investigate the kidnapping and killing of *El Comercio* journalists by a narcoguerrilla group in March and April 2018.

Actions to Expand Freedom of Expression, including for the media: President Moreno signed the Chapultepec Declaration on February 20, reiterating his commitment to press freedom. On April 29, representatives from several government agencies, including the Presidency's General Secretariat for Communication, Ministry of the Interior, Ministry of Foreign Affairs and Human Mobility, and Council for Regulation, Development, and Promotion of Information and Communication, signed an agreement to set up a national Committee for the Protection of Journalists. The committee drafts security protocols, provides training, and specifies the investigation of threats against journalists. On May 31, the committee held its first meeting, open to the public, in which the government's then secretary general for communication Andres Michelena reiterated the committee's dedication to journalists' defense and protection.

In May UN Special Rapporteur on Freedom of Opinion and Expression David Kaye submitted a report to the UN Human Rights Council based upon his October 2018 visit to the country. The report recognized the "significant progress" in the government's effort "to put an end to...violations of the right to freedom of expression, and to reverse their effects."

In July the Inter-American Court of Human Rights ruled in favor of newspaper *El Universo* in a case previously brought against it by then president Rafael Correa, who had accused *El Universo* of damaging his reputation following an editorial piece by journalist Emilio Palacio that analyzed the public clashes between police and national government in September 2011 (30-S).

## **Internet Freedom**

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

A government regulation requires that internet service providers comply with all information requests from the superintendent of telecommunications, allowing access to client addresses and information without a judicial order. The law holds a media outlet responsible for online comments from readers if the outlet has not established mechanisms for commenters to register their personal data (including national identification number) or created a system to delete offensive comments. The law also prohibits media from using information obtained from social media unless they can verify the author of the information.

According to a nonprofit organization, the government did not directly act against online criticism, although social media trolls arose following the publication of some controversial cases involving government officials.

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

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

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

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

In response to physical violence, vandalism, and looting during nationwide protests against the government's proposed economic reforms, President Moreno issued Decree 884 on October 3 that established a nationwide "state of exception" for 60 days, which suspended mass gatherings in public spaces and mobilized the armed forces and police to "protect property, life, and maintain order." The Constitutional Court validated the state of exception October 7 but limited it to 30 days.

On October 12, President Moreno issued Decree 893 amending the state of exception and focusing the restrictions on movement to key state installations and government buildings, as well as vital infrastructure including airports and oil refineries. The state of exception ended on November 2. Following escalating violence and attacks against police and military personnel and government and press buildings, the President declared a curfew in the Quito metropolitan area on October 12, which was lifted the following day.

### **Freedom of Peaceful Assembly**

The law provides for freedom of peaceful assembly, and the government generally respected this right. Public rallies require prior government permits, which authorities usually granted.

Although the nationwide state of exception under Decrees 884 and 893 prohibited mass gatherings, various mass demonstrations occurred between October 3 and October 13. President Moreno and government ministers consistently distinguished between peaceful protesters and violent agitators and vandals. Several peaceful demonstrations took place during the state of exception, including a peaceful protest by approximately 17,000 demonstrators that police facilitated in Quito on October 9 and a march for peace and democracy in Guayaquil that drew an estimated 30,000 persons on the same day.

The government reported that no lethal force by police or armed forces was used to respond to the protesters. According to Ministry of Government figures, there were 1,330 detentions, 1,507 wounded (including 435 police personnel), 202 police detained against their will by protesters, and up to eight dead between October 3-13 in the context of the protests. The government claimed most of the deaths were the result of accidents, including traffic accidents, but pledged to investigate the circumstances of all deaths. The government reported none of the deaths were attributable to live ammunition. The government invited the IACHR to visit October 28-30 and the Office of the UN High Commissioner for Human Rights for a mission October 20-November 8 to observe the human rights situation in connection with the protests. Final reports on the findings of the respective visits were pending through November 20.

### **Freedom of Association**

The law provides for freedom of association, and the government generally respected this right. In 2017 Decree 193 replaced executive Decrees 16 and 739 that regulated freedom of association. Civil society representatives noted the new decree eliminated provisions meant to stymie opposition and limit foreign influence and simplified the application process to obtain and maintain legal status for NGOs and social groups by relaxing and eliminating some bureaucratic hurdles. They continued to lament, however, that the new decree leaves in place some policies of the previous government that could enable the government to dissolve independent organizations for poorly defined reasons. According to media citing Human Rights Secretariat figures, the number of legally recognized organizations increased 79 percent from 35,569 in October 2017 to 63,753 in November.

**c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://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.

**e. Internally Displaced Persons**

Not applicable.

**f. Protection of Refugees**

The 2017 Human Mobility Law codifies protections granted to migrants in the constitution, advances the protection of refugees and asylum seekers, and establishes provisions such as equal treatment before the law for migrants, nonrefoulement, and noncriminalization of irregular migration.

During the year large numbers of migrants and asylum seekers and the country's economic slowdown strained the government's immigration and social services, which worked closely with local, international, and civil society organizations to cover assistance gaps.

As of September 2, nearly 500,000 Venezuelans had entered Ecuador, with approximately 75 percent transiting to other countries. On August 26, the government implemented a new humanitarian visa requirement for Venezuelans to enter Ecuador. The Office of the UN High Commissioner for Refugees (UNHCR) reported the number of Venezuelan migrants entering through formal border crossing points dropped considerably after August 26. International humanitarian organizations estimated that a significant number of Venezuelan citizens began to enter through informal border-crossing points. International organizations expressed concern the increased number of informal crossings placed more migrants in vulnerable conditions. International organizations also voiced concern that the new policy initially did not allow for exceptions to the visa requirement for some vulnerable populations.

The government estimated the number of Venezuelans residing in Ecuador likely exceeded 380,000 as of September 10. As of September the government had issued visas to approximately 120,000 Venezuelans.

The government began a nationwide registration and regularization process on September 26, which will end March 31, 2020. As of October 27, the Migration Secretariat of the Ministry of Government had registered more than 125,000 Venezuelans--the first step required to regularize status. On October 26, the Foreign Ministry began issuing two-year humanitarian visas to those registered as the next step in the regularization process.

Abuse of Migrants, Refugees, and Stateless Persons: Migrants and refugees, especially women and children, sometimes experienced sexual and gender-based violence. UNHCR and local NGOs reported that refugee women and children were susceptible to violence and trafficking in persons for the purposes of sex trafficking and forced labor. They also reported the forced recruitment of adolescents into criminal activity, such as drug trafficking and robbery, on the northern border, particularly by organized-crime gangs that also operated in Colombia. Government authorities provided basic protection for vulnerable populations; however, the influx of migrants and refugees during the year placed a significant strain on the government's capacity to address and prevent abuses against migrants and refugees.

The government cooperated with UNHCR, the International Organization for Migration, and other humanitarian organizations in providing protection and assistance to migrants, internally displaced persons, refugees, asylum seekers, stateless persons, and other vulnerable persons of concern.

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.

On June 18, Minister of Foreign Affairs and Human Mobility Jose Valencia stated the government had granted refugee status to approximately 68,000 persons since 1981, with 98 percent being Colombian citizens.

UNHCR reported an increase in Colombian and Venezuelan asylum seekers during the year. UNHCR reported Venezuelans and Colombians comprised the greatest number of asylum seekers, with 6,729 and 2,800 asylum cases recorded through June, respectively. When the new visa requirement for Venezuelans went into effect on August 26, UNHCR worked closely with Ecuadorian authorities to

enable all asylum seekers to approach Ecuadorian immigration facilities at the Rumichaca International Bridge on the border with Colombia to request asylum officially. More generally, an international organization reported many Venezuelans did not apply for asylum because they were unfamiliar with the process or did not know how long they would stay in the country.

Access to Basic Services: The country's Human Mobility Law provides for access to education, health care, and other services to all migrants irrespective of their legal status. Nonetheless, according to UNHCR and NGOs, refugees encountered discrimination in employment and housing. Recognized refugees received national identification cards that facilitated access to education, employment, banking, and other public services. A 2016 agreement between UNHCR and the Civil Registry allows UNHCR to provide financial aid to refugees who cannot afford to pay the identification card fee and travel expenses to the three cities where the cards are issued. UNHCR reported that 9,751 refugees had received identification cards as of August. The Civil Registry also requires a refugee enrollment order from the Ministry of Foreign Affairs and Human Mobility, and sometimes refugees were required to return to the ministry if the information on their records contained errors.

Durable Solutions: The government accepted refugees for resettlement and offered naturalization to refugees, although few refugees were able to naturalize as citizens or gain permanent resident status due to an expensive and lengthy legal process. Discrimination, difficulty in obtaining adequate documentation, and limited access to formal employment and housing affected refugees' ability to assimilate into the local population. On July 25, President Moreno issued a decree to grant migratory amnesty and begin a regularization process for law-abiding Venezuelans residing in an irregular status in the country.

Temporary Protection: While there is no legal provision for temporary protection, the government and NGOs provided humanitarian aid and additional services, such as legal, health, education, and psychological assistance, to individuals recorded as having crossed the border during the year.

As an associate member of the Southern Common Market (MERCOSUR) and despite the government's March 13 decision to leave the Union of South American Nations (UNASUR) and the National Assembly's September 17 vote affirming that decision, the government continued to issue temporary visas to citizens of Argentina, Bolivia, Brazil, Chile, Colombia, Paraguay, Peru, Uruguay, and Venezuela, and the government waived the visa application fee for Colombian and

Paraguayan citizens. Foreigners with an irregular migratory status in the country were eligible to apply for the visa. While the UNASUR and MERCOSUR visas do not provide a safeguard against forced repatriation, UNHCR noted many persons opted for these visas, since the procedure was faster than the refugee process and carried less social stigma. Visa recipients are able to work and study for two years. The visas are renewable based upon the same guidelines as the initial application, with only the additional requirement that the applicant provide an Ecuadorian Criminal Records Certificate, which can be obtained online. According to UNHCR, the new visa requirements allow Venezuelans to apply for a humanitarian temporary residence visa instead of applying for a UNASUR visa.

#### **g. Stateless Persons**

Not applicable.

### **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. A 2018 national referendum restored term limits for all elected positions, including the presidency, which had been eliminated through a 2015 constitutional amendment.

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

Recent Elections: On March 24, 83 percent of citizens elected 11,069 government officials out of 81,149 registered candidates for municipal, provincial, and parochial offices. Citizens also elected seven members for the permanent CPCCS for the first time. International observers from the Organization of American States, Inter-American Union of Electoral Organisms, and accredited diplomatic missions concluded the electoral process was orderly and peaceful, and they did not note any significant incidents.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate. The proportion of female candidates, however, was low for mayoral seats (14.3 percent) and provincial prefect positions (17.9 percent) in the March 24 local elections. National Electoral Council President Diana Atamaint noted reports of social media harassment against female candidates.

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

The law provides criminal penalties for corruption by officials, and the government took steps to implement the law effectively. Officials, particularly at the local level, sometimes engaged in corrupt practices with impunity. Various local organizations, however, commended the Moreno administration for continued improvement in addressing corruption more broadly. There were numerous reports during the year of government corruption that occurred during the Correa presidency.

Corruption: The government launched or continued multiple investigations, judicial proceedings, and legislative audits of officials accused of corruption related to state contracts and commercial endeavors that reached the highest levels of government.

On February 16, the Office of the Attorney General announced it was conducting 11 preliminary investigations against Correa, five against former vice president Jorge Glas (in jail serving a six-year illicit association sentence), and three against Correa's legal secretary Alexis Mera (placed under house arrest on July 2), among other officials. The investigations included allegations of embezzlement and bribery. As of November the Attorney General's Office had indicted 24 former government and private-sector officials, including Correa and Glas, in an investigation of an alleged bribery scheme called the "2012-2016 Bribes," involving the Brazilian Odebrecht company and other firms that allegedly financed political party activities and campaigns during the Correa government in exchange for government contracts. The National Court of Justice also ordered preventive detention for Correa, Glas, former water secretary Walter Solis, former administration secretary Vinicio Alvarado, and former ministry of public works advisor Yamil Massuh. As of November a National Court of Justice determination on pursuing formal charges of bribery, influence peddling, and illicit association remained pending.

The comptroller general's headquarters in Quito was attacked on three separate occasions, set on fire, and eventually destroyed by unknown persons during violent protests throughout the capital in early October. Political analysts and civil society organizations noted the unknown attackers appeared to target areas in the building believed to contain archive files relating to pending high-level corruption cases. The Attorney General's Office announced 34 persons were detained on terrorism charges in connection with the incidents. Among them were six minors who were sent to a juvenile detention center before being released on bail October 31.

Thirteen others were granted bail. Terrorism charges against the 34 individuals were replaced with charges of sabotage, “paralysis of public services,” destruction of property, theft, or breach of authority. As of November all remaining suspects in pretrial detention had been released on bail, and cases remained pending.

In December 2018 then vice president Maria Alejandra Vicuna stepped down after a former aide accused her of accepting bribes during her time as a legislator. The Attorney General’s Office charged her with abuse of official privileges on May 15; the case was pending as of September 25.

As part of the 2018 national referendum convoked by President Moreno, citizens approved a constitutional amendment ending the statute of limitations on corruption charges and prohibiting those sentenced for crimes related to the mismanagement of public resources from running for public office or contracting with the state.

Financial Disclosure: Government officials are required to declare their financial holdings upon taking office and, if requested, during an investigation. All agencies must disclose salary information monthly through their web portal. The constitution requires public officials to submit an affidavit regarding their net worth at the beginning and end of their term, including their assets and liabilities, as well as an authorization to lift the confidentiality of their bank accounts. Public officials are not required to submit periodic reports, except in the case of legislators, who must also present a declaration at the midpoint of the period for which they were elected. All the declarations must be filed online with the comptroller general, whose website provides general information on the declarations and contains a section where the public can conduct a search of officials to see if officials complied with the disclosure requirements of income and assets. Access to the entire declaration requires a special application, and the comptroller has the discretion to decide whether to provide the information. A noncomplying official cannot be sworn into office, but there are no criminal or administrative sanctions for noncompliance.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were often cooperative and responsive to their views.

In 2017 President Moreno issued Decree 193 to replace Decrees 16 and 739 that regulated freedom of association. Domestic and international human rights organizations are subject to the NGO regulations in the decree. Civil society representatives said the new decree was a step in the right direction but noted it enables the government to dissolve organizations for imprecise reasons (see section 2.b.).

Government Human Rights Bodies: The Ombudsman's Office is an administratively and financially independent body under the Transparency and Social Control Branch of government, focused on human rights. The Ombudsman's Office regularly presented cases to the Public Prosecutor's Office.

On July 3, President Moreno appointed Cecilia Chacon as head of the new Human Rights Secretariat, which is part of the executive branch and reports to the presidency. The secretariat undertook some roles exercised by the former ministry of justice, human rights and religious groups that was dissolved by Executive Decree 560 issued in November 2018.

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

### **Women**

Rape and Domestic Violence: The law criminalizes rape of men or women, including spousal rape and domestic violence. The government enforced these laws, although victims were sometimes reluctant to report these crimes. Rape is punishable with penalties of up to 22 years in prison. The law includes spousal rape under crimes against sexual and reproductive integrity. The penalty for rape where death occurred is 22 to 26 years' imprisonment. Domestic violence is punishable with penalties ranging from four days to seven years in prison and a fine for "damages, pain, and suffering" ranging from \$350 to \$5,300, depending on the severity of the crime. The law stipulates penalties for physical, psychological, and sexual violence.

A 2018 law provides reparation to victims of gender-based violence, while advocating for the re-education of aggressors. The law defines rape, including spousal rape or incest, forced prostitution, sexual harassment, and other analogous practices, as forms of sexual violence. It also entitles victims to immediate protective measures designed to prevent or cease violence, such as police

surveillance, placement in shelters, and awareness programs for the victim and family.

According to human rights organizations, victims were generally reluctant to press domestic violence charges, and the court system was insufficiently staffed to deal with the caseload. Judges lacked specialized training for dealing with gender-based violence. Rights organizations also reported victims were sometimes discouraged from reporting their aggressors by local protection-board officials.

The NGO monitoring platform Alianza Mapeo reported 62 femicides countrywide as of August 8. Of the femicides, 60 percent were committed by a spouse or partner. According to the local organization Latin American Association for Alternative Development, most victims were either stabbed, strangled, or suffocated. While most victims were between 18 and 30 years old, one minor was also killed. According to local experts, reporting rapes and other forms of violence continued to be a traumatic process, particularly for female minors. For example, a rape victim must file a complaint at the Public Prosecutor's Office and submit to gynecological evaluations akin to rape kits administered by medical experts. Many individuals did not report cases of rape and sexual assault because of fear of retribution from the perpetrator or social stigma.

On March 9, government officials launched a mobile application to accelerate the law enforcement response to complaints of gender-based violence, including rape. The Ministry of Social and Economic Inclusion, together with local and provincial governments and NGOs, provided psychosocial services to victims of sexual and domestic violence. The ministry subsidized shelters and other initiatives, including medical services at care centers and private clinics.

Sexual Harassment: The law criminalizes sexual harassment and provides for penalties of one to five years in prison. The law defines sexual harassment and other analogous practices as forms of sexual violence and mandates that judges prohibit contact between the aggressor and the victim to prevent revictimization and intimidation. Despite the legal prohibition of sexual harassment and government implementation of the law, women's rights organizations described a tendency to not report alleged harassment, while harassment remained common in public spaces.

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

Discrimination: The constitution affords women the same legal status and rights as men. Nevertheless, discrimination against women was prevalent, particularly with respect to economic opportunities for older women and for those in the lower economic strata. On March 7, the National Technical Secretariat for Equality and Development told local press the average monthly income of an employed man was 20 percent more than a woman working under the same conditions.

## **Children**

Birth Registration: Citizenship is acquired through birth in the country, birth to an Ecuadorian mother or father abroad, or by naturalization. According to media reports, ethnic minority families and those with limited economic resources continued to show registration rates significantly lower than those of other groups. Government brigades occasionally traveled to remote rural areas to register families and persons with disabilities. While the law prohibits schools from requesting civil registration documents for children to enroll, some schools, mostly public schools, continued to require them. NGOs reported the problem particularly affected refugee and migrant children. Other government services, including welfare payments and free primary health care, require some form of identification.

Education: The lack of schools in some areas specifically affected indigenous and refugee children, who must travel long distances to attend school.

Child Abuse: The law criminalizes child abuse and provides penalties of 30 days to 26 years in prison, depending on the severity of the abuse.

According to the Office of the Public Prosecutor in May, approximately six of 10 rape victims were children and adolescents. Media reported in June that approximately 16 percent of the 7,977 sex-crime complaints tracked by the Ministry of Education between 2014 and May 2019 were directed against minors. Teachers or school staff were alleged as perpetrators in 25 percent of all complaints. NGOs reported that children living in the streets or in rural parts of the country, many of whom came from poor indigenous families, suffered from exploitative conditions. Throughout the year the Ministry of Education sent officials to investigate reported cases of child abuse in educational establishments.

Bullying remained a problem in schools and increasingly occurred on social media. According to UNESCO statistics reported by media outlets, 23 percent of children suffered bullying and 7 percent cyberbullying in 2018. The government's

“Lifetime Plan” program establishes programs addressing different types of violence, including bullying.

Early and Forced Marriage: The legal age of marriage is 18. There were reports of early and forced marriage in indigenous communities, particularly in instances in which girls became pregnant following an instance of rape. A Plan International study cited the testimony of public officials who reported that in many cases sexual aggressors compensated violence with payment or exchange of animals, but in some cases victims were forced to marry their aggressors.

Sexual Exploitation of Children: The age of consent is 14. The law prohibits sexual exploitation of children, including child pornography, with penalties of 22 to 26 years’ imprisonment. The penalty for sex trafficking for the purposes of commercial sexual exploitation of children younger than age 18 is 13 to 16 years in prison. Child sex trafficking remained a problem, despite government enforcement efforts.

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/reported-cases.html>.

### **Anti-Semitism**

There is a small Jewish community, including an estimated 250 families in Quito and 82 families in Guayaquil. Jewish community members in Quito reported an online threat from a social media user in May; police and the Attorney General’s Office investigated and determined there was no physical threat to community members. An unknown perpetrator painted a swastika in a Quito school parking lot in June; no arrests were made.

### **Trafficking in Persons**

See the Department of State’s *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The National Council on Disability Equality oversees government policies regarding persons with disabilities.

President Moreno promoted social initiatives to raise awareness about disability rights. In 2017 the president broadened the defined legal recognition of a disability and increased tax benefits for persons with disabilities; however, human rights activists noted much work remained. Although the law mandates access to buildings and promotes equal access to health, education, social security, employment, transport, and communications for persons with disabilities, the government did not fully enforce it. Media reported that 1,171 persons with disabilities attended undergraduate and graduate school in 2018, which was less than 1 percent of the total student population. A March 18 article in *El Telegrafo* reported persons with disabilities continued to demand improvements to allow them full access to public transportation. *El Telegrafo* also reported the government spent nearly \$200 million in 2018-19 on assistance programs aimed at persons with disabilities, including social services, home and health care programs, and employment and education incentives.

The law stipulates rights to health facilities and insurance coverage as well as access and inclusion in education, and it mandates a program for scholarships and student loans for persons with disabilities. The law provides for special job security for those with disabilities and requires that 4 percent of employees in all public and private enterprises with more than 25 employees be persons with disabilities. The law also gives the Ombudsman's Office responsibility for following up on alleged violations of the rights of persons with disabilities and stipulates a series of fines and punishments for lack of compliance with the law.

The law directs the electoral authorities to provide access to voting and to facilitate voting for persons with disabilities.

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

The constitution declares the state to be plurinational and affirms the principle of nondiscrimination by recognizing the rights of indigenous, Afro-Ecuadorian, and Montubio (an independent ethnic group of persons with a mixture of Afro-Ecuadorian, indigenous, and Spanish ancestry) communities. It also mandates affirmative action policies to provide for the representation of minorities. In 2009 the government began implementing a national plan to eradicate racial discrimination and exclusion based on ethnic and cultural differences. On March

1, the National Council for the Equality of Peoples and Nationalities reported the government failed to disclose its expenditures on the implementation of the national agenda and other policies promoting racial equality.

Afro-Ecuadorian citizens, who accounted for approximately 7 percent of the population according to census in 2010, suffered pervasive discrimination, particularly with regard to educational and economic opportunity. Afro-Ecuadorian organizations noted that, despite the absence of official discrimination, societal discrimination and stereotyping in media continued to result in barriers to employment, education, and housing. The National Council for the Equality of Peoples and Nationalities reported in February that racial minority groups had less access to managerial positions and other professional opportunities.

### **Indigenous People**

The law provides indigenous persons the same civil and political rights as other citizens. The constitution strengthens the rights of indigenous persons and recognizes Kichwa and Shuar as “official languages of intercultural relations.” The constitution grants indigenous persons and communities the right to prior consultation, that is, to participate in decisions about the exploitation of nonrenewable resources located on their lands that could affect their culture or environment, although indigenous peoples’ organizations noted public- and private-sector actors often ignored prior consultation. The constitution also allows indigenous persons to participate in the economic benefits natural resource extraction projects may bring and to receive compensation for any damages that result.

In the case of environmental damage, the law mandates immediate corrective government action and full restitution from the responsible company, although some indigenous organizations asserted a lack of consultation and remedial action. The law recognizes the rights of indigenous communities to hold property communally, although the titling process remained incomplete in parts of the country. During the February 2018 national referendum, voters approved two constitutional amendments relevant to indigenous communities, prohibiting mining in urban and protected areas and limiting oil drilling in Yasuni National Park.

On August 24, the Confederation of Indigenous Nationalities of Ecuador (CONAIE), the largest group representing indigenous peoples’ rights, announced its withdrawal from the dialogue initiated with the Moreno administration in 2017. CONAIE criticized the rushed nature of talks, an atmosphere of mistrust, and the

government's "neoliberal economic policies that affect the most impoverished sectors" in the country. CONAIE added that talks did not produce concrete results on issues of importance to indigenous communities, including environmental rights and extractive industries.

The National Council on the Equality of Peoples and Nationalities reported in 2018 that almost 23 percent of indigenous women were underemployed, 36 percent were illiterate, and political participation of indigenous women continued to lag behind the rest of the population.

On April 30, an Amnesty International report faulted the government for a lack of will to adequately provide protection and conduct serious criminal investigations into the 2018 attacks and threats against the female Amazonian environmental defenders Patricia Gualinga, Nema Grefa, Salome Aranda, and Margoth Escobar. Human rights organizations expressed concern about intimidation tactics used against these activists from unidentified sources, including death threats and physical assault. Amnesty International reported these tactics were intended to silence their environmental activism.

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

The constitution includes the principle of nondiscrimination and the right to decide one's sexual orientation. The law also prohibits hate crimes. Although the law prohibits discrimination based on sexual orientation, lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons continued to suffer discrimination from both public and private entities, particularly in education, employment, and access to health care. LGBTI organizations reported transgender persons suffered more discrimination because they were more visible.

A June 12 Constitutional Court decision to legalize same-sex marriage went into effect on July 8. The ruling also mandated that same-sex couples be able to marry in Ecuadorian consulates and other diplomatic offices worldwide as long as one partner was an Ecuadorian citizen. The court rewrote Article 81 of the civil code and ordered the National Assembly to reform secondary laws as soon as possible to include equal treatment of same-sex couples.

The government, led by the Ombudsman's Office, was generally responsive to concerns raised by the LGBTI community. Nevertheless, LGBTI groups claimed police and prosecutors did not thoroughly investigate deaths of LGBTI individuals,

including when there was suspicion that the killing was motivated by anti-LGBTI bias.

LGBTI persons continued to report that the government sometimes denied their right of equal access to formal education. LGBTI students, particularly transgender students, sometimes were discouraged from attending classes (particularly in higher education). LGBTI students, particularly transgender individuals, were more susceptible to bullying in schools, and human rights activists argued the Ministry of Education and school administrators were slow to respond to complaints. LGBTI persons involved in the commercial sex trade reported abusive situations, extortion, and mistreatment by security forces.

On July 30, an LGBTI nonprofit organization reported a transgender minor was denied enrollment at 15 schools under her chosen name and gender in 2017. The minor's parents filed a lawsuit requesting that officials allow her to change her name and gender on identity documents to end discrimination against her. The Office of the Civil Registry allowed changes on her identity card in November 2018. The nonprofit Equidad reported the parents then filed an inquiry with the Constitutional Court to determine the age transgender underage individuals may change their identity information. A court decision on the inquiry was pending as of October 29. The law prohibits LGBTI persons younger than 18 to change gender on their identity documents, even with parental consent.

LGBTI organizations and the government continued to report that private treatment centers confined LGBTI persons against their will to “cure” or “dehomosexualize” them, although such treatment is illegal. The clinics reportedly used cruel treatments, including rape, in an attempt to change LGBTI persons' sexual orientation.

## **Section 7. Worker Rights**

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

The law, with some exceptions, provides for the rights of workers to form and join trade unions of their choice, bargain collectively, and conduct legal strikes. The law prohibits the dismissal of union members from the moment a union notifies the labor inspector of its general assembly until the formation of its first executive board, the first legal steps in forming a union. Employers are not required to reinstate workers fired for union activity but are required to pay compensation and fines to such workers. According to an April 29 *El Comercio* article, the number

of public and private unions registered by the Ministry of Labor increased by 32 percent since 2013.

Companies that dismiss employees attempting to form a union or that dismiss union members exercising their rights face a fine of one year's annual salary for each individual wrongfully dismissed. Individual workers still employed may take complaints against employers to the Labor Inspection Office. Individuals no longer employed may take their complaints to courts charged with protecting labor rights. Unions may also take complaints to a tripartite arbitration board established to hear these complaints. These procedures often were subject to lengthy delays and appeals.

All private employers with unionized employees are required to negotiate collectively when the union so requests. The law requires a minimum of 30 workers for the creation of an association, work committee, or labor union, and it does not allow foreign citizens to serve as trade union officers. In 2018 the Ministry of Labor authorized, through ministerial resolutions, eight new types of labor contracts, with specific provisions for the flower, palm, fishing, livestock, and construction sectors.

The law provides for the right of private-sector employees to strike on their own behalf and conduct three-day solidarity strikes or boycotts on the behalf of other industries. The law also establishes, however, that all collective labor disputes be referred to courts of conciliation and arbitration. In 2014 the International Labor Organization (ILO) called on the government to amend this provision by limiting such compulsory arbitration to cases where both parties agree to arbitration and the strike involves the public servants who exercise authority in the name of the state or who perform essential services. As of September 13, the government had not taken any action.

In most industries the law requires a 10-day "cooling-off" period from the time a strike is declared before it can take effect. In the case of the agriculture and hospitality industries, where workers are needed for "permanent care," the law requires a 20-day "cooling-off" period from the day the strike is called, and workers cannot take possession of a workplace. During this time workers and employers must agree on how many workers are needed to ensure a minimum level of service, and at least 20 percent of the workforce must continue to work to provide essential services. The law provides "the employer may contract substitute personnel" only when striking workers refuse to send the number of workers required to provide the minimum necessary services.

The law prohibits formation of unions and restricts the right to collective bargaining and striking of public-sector workers in “strategic sectors.” Such sectors include workers in the health, environmental sanitation, education, justice, firefighting, social security, electrical energy, drinking water and sewage, hydrocarbon production, fuel processing, transport and distribution, public transportation, and post and telecommunications sectors. Some of the sectors defined as strategic exceed the ILO standard for essential services. Workers in these sectors attempting to strike may face charges with penalties of between two and five years’ imprisonment. The government effectively enforced the law. Public transportation workers went on strike October 3-4 in response to the government’s elimination of fuel subsidies. All unions in the public sector fall under the Confederation of Public Servants. Although the vast majority of public-sector workers also maintained membership in labor-sector associations, the law does not allow such associations to bargain collectively or strike. In 2015 the National Assembly amended the constitution to specify that only the private sector could engage in collective bargaining.

Government efforts to enforce legal protections of freedom of association and the right to collective bargaining often were inadequate and inconsistent. Employers did not always respect freedom of association and collective bargaining. Although independent, unions often had strong ties to political movements.

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

The law prohibits all forms of forced or compulsory labor, including all forms of labor exploitation; child labor; illegal adoption; servile marriage; and the sale of tissues, fluids, and genetic materials of living persons. Penalties were sufficient to deter violations.

The government did not effectively enforce the law. Limited resources, limited presence in parts of the country, and inadequate victim services hampered the effectiveness of police and prosecutors. NGOs and media outlets continued to report that children were being subjected to forced criminality, particularly drug trafficking.

Reports of forced labor of children (see section 7.c.) and women persisted. Observers most frequently reported women as victims of sex trafficking or of working in private homes under conditions that may amount to human trafficking. On April 29, the National Police reported the rescue of 11 female alleged sex

trafficking victims. On July 30, *El Universo*, citing consolidated government figures, reported that 332 trafficking-in-persons victims (83 percent of them female) were reported between January 2017 and July 2019.

Indigenous and Afro-Ecuadorians, Colombian refugees, and Venezuelan migrants (see section 7.d.) were particularly vulnerable to human trafficking. Traffickers often recruited children from impoverished indigenous families under false promises of employment; these children were then forced to beg or to work as domestic servants, in sweatshops, or as street and commercial vendors within the country or in other South American countries. Men, women, and children were exploited in forced labor and sex trafficking abroad, including in other South American countries and the United States. The country is a destination for South and Central American women and girls exploited in sex trafficking, domestic servitude, and forced begging.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

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

The law prohibits the worst forms of child labor. It sets the minimum working age for minors at 15 for all types of labor and the maximum hours a minor may work at six hours per day, five days per week. The law requires employers of minors who have not completed elementary school to give them two additional hours off from work to complete studies. The law requires employers to pay minors the same wages received by adults for the same type of employment and prohibits minors younger than age 18 from working in "dangerous and unhealthy" conditions. A 2015 ministerial accord lists 27 economic activities that qualify as dangerous and unhealthy. Other illegal activities, including slavery, prostitution, pornography, and drug trafficking, are punishable. The law identifies work that is "likely to harm the health, safety, or morals of a child," which includes work in mines, garbage dumps, slaughterhouses, livestock, fishing, textiles, logging, and domestic service, as well as in any work environment requiring exposure to toxic or dangerous substances, dust, dangerous machinery, or loud noises.

The law establishes penalties for violations of child labor laws, including fines and closure of the business. Penalties were not sufficient to deter violations. If an employer commits a second child labor violation, inspectors may close the business temporarily. The law authorizes labor inspectors to conduct inspections

at factories, workshops, and any other location when they consider it appropriate or when an employer or worker requests an inspection.

The government did not effectively enforce the law. The Ministries of Labor and of Economic and Social Inclusion, Rights Protection Boards, and the Minors' Tribunals are responsible for enforcing child labor laws, although budgetary constraints affected each ministry's ability to enforce laws.

A January report by the governmental Intergenerational Equality Council indicated the provinces of Cotopaxi, Bolivar, and Chimborazo had the highest child labor rates for children between the ages of five and 14. A 2017 survey on employment and underemployment found that 3 percent of children ages five to 11 and 10.6 percent of children ages 12 to 14 worked. The survey found that child laborers were most likely in rural areas, particularly in the agricultural and ranching sectors. Although the government conducted two surveys in 2017 that included some information on child labor, the government had not conducted a nationwide child labor survey since 2012. Both government and civil society officials agreed that a lack of updated statistics hampered efforts in eradicating child labor.

Several labor organizations and NGOs reported child labor in the formal employment sectors continued to decline. According to these groups, it was rare in virtually all formal-sector industries due to an increased number of government inspections, improved enforcement of government regulations, and self-enforcement by the private sector. For example, in the past several years, banana producers working with the Ministry of Agriculture and unions on a plan to eliminate child labor formed committees to certify when plantations used no child labor. These certification procedures do not apply to the informal sector.

The government also did not effectively enforce child labor laws in the informal sector. In rural areas children were most likely found working in family-owned farms or businesses, including banana and rose farms. Labor organizations reported children were largely removed from the most heavy and dangerous work. Additionally, there were reports of rural children working in small-scale, family-run brickmaking and gold-mining operations. In urban areas many children under age 15 worked informally to support themselves or to augment family income by peddling on the street, shining shoes, or begging.

Local civil society organizations reported that children conducted domestic work, including paid household work. A November 2018 study by a local nonprofit group found that many house cleaners, for example, began working between the

ages of six and 12. The study found that “girls from indigenous or rural communities were taken to cities without documents, without information, and kept in homes while practically doing bonded labor.” The study concluded that through these practices “child labor is legitimized without any type of protection from exploitation.”

Also see the Department of Labor’s *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

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

The law and regulations prohibit discrimination regarding race, sex, gender, disability, language, sexual orientation or gender identity, HIV-positive status or other communicable diseases, or social status. The law prohibits employers from using discriminatory criteria in hiring, discriminating against unions, and retaliating against striking workers and their leaders. The government did not effectively enforce those laws and regulations. Penalties were not sufficient to deter violations.

Employment discrimination against women was prevalent, particularly with respect to economic opportunities for older women and for those in the lower economic strata. In August 2018 the National Assembly approved a series of labor reforms for employees in the public and private sectors to prevent workplace harassment.

Afro-Ecuadorians continued to demand more opportunities in the workforce and complained that employers often profiled them based on their job application photographs. A study published in December 2018 by the Quito mayor’s office showed that labor discrimination against Afro-Ecuadorians clearly demonstrated “stereotypes of vagrancy, wrongdoing, violence, exacerbated sexuality, [and] lack of intellectuality” and adversely affected insertion in the workplace. Indigenous and LGBTI individuals also experienced employment discrimination.

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

The law provides for a minimum monthly wage, which was above the poverty income level.

The law limits the standard work period to 40 hours a week, eight hours a day, with two consecutive days of rest per week. Miners are limited to six hours a day

and may only work one additional hour a day with premium pay. Premium pay is 1.5 times the basic salary for work done from 6 a.m. to 12 p.m. Work done from 12 a.m. to 6 a.m. receives twice the basic salary, although workers whose standard shift is at night receive a premium of 25 percent instead. Premium pay also applies to work on weekends and holidays. Overtime is limited to no more than four hours a day and a total of 12 hours a week. Mandatory overtime is prohibited. Workers are entitled to a continuous 15-day annual vacation, including weekends, plus one extra day per year after five years of service. Different regulations regarding schedule and vacations apply to live-in domestic workers. The law mandates prison terms for employers who do not comply with the requirement of registering domestic workers with the Social Security Administration.

The law provides for the health and safety of workers and outlines health and safety standards, which are current and appropriate for the country's main industries. These regulations and standards were not applied in the informal sector, which employed more than 46 percent of the working population. The number of inspectors was insufficient to effectively enforce the law.

Authorities may conduct labor inspections by appointment or after a worker complaint. If a worker requests an inspection and a Ministry of Labor inspector confirms a workplace hazard, the inspector then may close the workplace. Labor inspections generally occurred because of complaints, not as a preventive measure, and inspectors could not make unannounced visits. In some cases violations were remedied, but other cases were subjected to legal challenges that delayed changes for months. Penalties were not sufficient to deter violations and were often not enforced.

The Ministry of Labor continued its enforcement reforms by conducting labor inspections and increasing the number of workers protected by contracts, minimum wage standards, and registration for social security benefits. The Ministry of Labor did not effectively enforce wage and hour or occupational safety and health laws. Penalties were not sufficient to deter violations.

Most workers worked in the large informal sector and in rural areas. They were not subject to the minimum wage laws or legally mandated benefits. Occupational health and safety problems were more prevalent in the large informal sector. The law singles out the health and safety of miners, but the government did not enforce safety rules in informal small-scale mines, which made up the vast majority of enterprises in the mining sector. Migrants and refugees were particularly vulnerable to hazardous and exploitative working conditions. According to media,

local organizations reported complaints of Venezuelans receiving below the minimum wage, particularly in the informal sector.

Workers in the formal sector could generally remove themselves from situations that endangered health or safety without jeopardy to their employment, and authorities effectively protected employees in this situation. Workers in the informal sector received far fewer labor protections, and they were less likely to be able to remove themselves from dangerous health or safety situations without jeopardy to their employment.