

# PERU 2021 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Peru is a constitutional, multiparty republic. President Pedro Castillo assumed the presidency in July, succeeding President Francisco Sagasti, after winning the June 6 presidential runoff, in elections that observers characterized as free and fair. Legislative elections took place concurrently to elect the 130-member, single-chamber parliament.

The Peruvian National Police report to the Ministry of Interior and maintain internal security. The Peruvian Armed Forces, reporting to the Ministry of Defense, are responsible for external security in addition to some domestic security responsibilities in designated emergency areas and in exceptional circumstances. Civilian authorities maintained effective control over security forces. There were credible reports that members of security forces committed some abuses.

Significant human rights issues included credible reports of serious government corruption at all levels, including in the judiciary; lack of investigation of and accountability for gender-based violence; and sex and labor trafficking.

The government took steps to investigate and, in some cases, prosecute or otherwise punish public officials accused of abuses and corruption, including high-level officials. Nonetheless, corruption and a perception of impunity remained prevalent and were major public concerns.

## Section 1. Respect for the Integrity of the Person

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

In contrast with 2020, there were no reports that the government or its agents committed arbitrary or unlawful killings.

On May 23, between three and five unidentified individuals shot and killed 16 persons, including two minors, in the town of San Miguel del Ene, in the Valley of

the Apurimac, Ene, and Mantaro Rivers (VRAEM). The Joint Command of the Armed Forces attributed the killings to the self-named Militarized Communist Party of Peru, led by remnants of the Shining Path domestic terrorist group, which was active in the VRAEM and heavily engaged in drug-trafficking activities. Press reported surviving witnesses' testimonies that cast doubt on that official account, noting that the appearance, modus operandi, and retreat direction of the shooters did not match the usual behavior of the Militarized Communist Party of Peru. The incident, which took place two weeks before the June 6 second round of presidential elections, was under investigation by the Public Ministry as of November.

As of November the Public Ministry was investigating the killings allegedly committed by security forces of Inti Sotelo and Brian Pintado in November 2020, during protests following the congressional impeachment of former president Vizcarra. The Public Ministry was also investigating the December 2020 death of demonstrator Jorge Munoz, allegedly killed by members of the Peruvian National Police (PNP) during an agricultural workers' strike in Chao, La Libertad.

The prosecution continued of former midlevel PNP officer Raul Prado Ravines, accused of leading an extrajudicial killing squad from 2012 to 2015. The case involved the alleged killing of more than 27 criminal suspects during at least nine separate police operations to cover up police corruption and to generate awards and promotions. As of October there were 14 police officers in preventive detention, eight in prison and six under house arrest, awaiting trial for their alleged roles in the operations. In September 2020 a judge issued a pretrial detention order against Prado Ravines, but as of November his location was unknown.

Human rights and environmental activists expressed concern for their own safety while working in areas with drug trafficking or widespread natural resource extraction, such as illegal logging and mining. Activists accused actors engaging in these activities and local authorities of harassing them, especially in areas where officials faced corruption charges and suspicion of criminal links. As of October at least four environmental rights defenders in the Peruvian Amazon, mostly indigenous leaders, had been killed defending their land. In February criminals who were reportedly engaged in drug trafficking and illegal logging allegedly killed two indigenous Kakataibo environmental activists, Herasmo Garcia and

Yenes Rios, in Puerto Nuevo, Ucayali. In March suspected land traffickers killed indigenous Ashaninka leader and environmental activist Estela Casanto in Shankivironi, Junin. In July unidentified individuals shot and killed indigenous leader Mario Lopez in Puerto Bermudez, Pasco. Nongovernmental organizations (NGOs), fellow activists, the United Nations, and various government actors expressed concern for the increase in killings of environmental activists (four environmental activists were killed during the year and five in 2020, compared with one in 2019). Activists claimed the slow, ineffective justice process supported continued impunity.

## **b. Disappearance**

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

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

The law prohibits such practices, but there were reports that government officials employed them. Local and international NGOs stated the government did not effectively prevent these abuses or punish those who committed them. According to NGO representatives, many victims did not file formal complaints against their alleged abusers, and those who did so purportedly had difficulty obtaining judicial redress and adequate compensation.

Prosecutors continued investigations of widespread allegations that police committed abuses against protesters during the five-day presidency of Manuel Merino in November 2020. In October the attorney general requested Congress to allow a criminal accusation against Merino, his prime minister Antero Florez Araoz, and his minister of interior Gaston Rodriguez as responsible for the abuses, including two confirmed killings. On November 12, Congresswoman Susel Paredes filed a request for Congress to discuss allowing the criminal accusation against Merino, Florez, and Rodriguez.

Impunity remained a significant problem in the security forces. The lack of sanctions regarding the November 2020 alleged abuses by security forces heightened public concern regarding accountability. There is an autonomous legal

system that governs the conduct of active-duty PNP and military personnel. Prosecuting high-level officials, including ministers of interior and ministers of defense, requires a formal request from prosecutors to Congress to lift officials' immunity and congressional approval to proceed.

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

Prison conditions were generally harsh due to overcrowding, improper sanitation, inadequate nutrition, poor health care, and corruption among guards, who allegedly smuggled weapons and drugs into the prisons.

**Physical Conditions:** As of May the National Penitentiary Institute (INPE) reported the prison system held 86,812 prisoners in 69 facilities designed for a total of 40,137 prisoners. Of inmates, 36 percent were in pretrial detention. The population at the largest prison in the country, the Lurigancho penitentiary, was 3.7 times its prescribed capacity.

Assaults on inmates by prison guards and fellow inmates occurred. Many inmates had only intermittent access to potable water. Bathing facilities were often inadequate, kitchen facilities were unhygienic, and prisoners often slept in hallways and common areas due to a lack of cell space.

Prisoners with money, influence, or other resources had access to privileges including cell phones, illegal drugs, and better meals prepared outside the prison. In June leaked audio recordings revealed that inmate Vladimiro Montesinos, an advisor to former president Alberto Fujimori serving a sentence for human right abuses and corruption, engaged in political activities during the 2021 presidential campaign by telephone from inside a high-security prison run by the navy. In August the government transferred Montesinos to another high-security prison.

Most prisons provided limited access to medical care, which resulted in delayed diagnoses of illnesses. The COVID-19 pandemic aggravated this situation. Visitation restrictions due to COVID-19 further limited inmate access to resources, since visits by relatives were previously a frequent source of food, medicine, and clothing. Inmates complained of having to pay for medical care. A study by researchers from Pedro Ruiz Gallo University found tuberculosis, HIV, and AIDS remained at levels high enough to constitute a potential threat to the broader public

health. The Ombudsman's Office continued to report insufficient accessibility and inadequate facilities for prisoners with disabilities. Prisoners with mental disabilities usually lacked access to adequate psychological care.

**Administration:** Independent and government authorities investigated credible allegations of mistreatment.

**Independent Monitoring:** The government permitted monitoring visits by independent human rights and international humanitarian law observers. COVID-19 distancing restrictions halted unannounced visits to inmates by International Committee of the Red Cross officials and representatives of the Ombudsman's Office, but the government coordinated with and received written feedback from them. The Ministry of Women and Vulnerable Populations and UNICEF monitored and advised on policies for juvenile detention centers.

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

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge in court the lawfulness of his or her arrest or detention. The government constitutionally suspended the right to freedom from arrest without warrant in designated emergency zones and nationwide during the continued national state of emergency for COVID-19. As of November lesser restrictions to avoid the spread of COVID-19 remained in force.

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

The law requires a written judicial warrant based on sufficient evidence for an arrest unless authorities apprehended the alleged perpetrator in the actual conduct of a crime. In all other circumstances, 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 of an arrest. The Public Ministry, in turn, must issue its own assessment of the

legality of the police action in the arrest.

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

**Arbitrary Arrest:** Prosecutors continued to investigate allegations of unlawful detentions by police forces, including plainclothes officers, that reportedly occurred during the November 2020 protests.

**Pretrial Detention:** Lengthy pretrial detention remained a problem. According to a May report by INPE, 36 percent of prisoners were being held under pretrial detention provisions. The length of pretrial detention occasionally equaled but did not exceed the maximum sentence of an alleged crime. Delays were due mainly to judicial inefficiency, corruption, and staff shortages, and the COVID-19 pandemic. 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 yet tried, convicted, and sentenced. The courts factored pretrial detention into final sentences.

Official guidelines stipulate an accused individual must meet three conditions to receive pretrial detention: there should be reasonable evidence that the subject committed the crime; the penalty for the crime must be greater than a four-year prison sentence; and the subject is a flight risk or could obstruct the justice process through undue influence over key actors, including through coercion, corruption, or intimidation. The Constitutional Tribunal may consider the guidelines for current cases of pretrial detention as they deliberate habeas corpus requests. In 2020 Congress approved legislation preventing the use of pretrial detention of police officers who kill or injure “while complying with their duties,” overriding executive opposition.

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

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

corruption.

### **Trial Procedures**

The law provides for the right to a fair and public trial, and the judiciary generally enforced this right, although reports of judicial system corruption were common. In June the government completed the transition begun in 2006 from an inquisitorial to an accusatory legal system and fully applied the application of a new criminal procedure code to streamline the penal process.

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 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 and excessive caseloads. Although the law grants citizens the right to a trial in their own language, interpretation and translation services for non-Spanish speakers were not always available. This deficiency primarily affected speakers of indigenous Andean and Amazonian languages.

The law provides that all defendants have the right to adequate time and facilities to prepare 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 higher court and ultimately to the Supreme Court. The Constitutional Tribunal may rule on cases involving the constitutionality of laws and issues, such as habeas corpus.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **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 alleged 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 emergency zones in the VRAEM and La Pampa – due to drug trafficking and terrorist activity, and illegal mining, respectively – suspended the right to home inviolability in those regions.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

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

**Freedom of Expression for Members of the Press and Other Media, Including Online Media:** Several organizations, including the Institute of Press and Society (IPYS), EU Electoral Observation Mission, Ombudsman's Office, and Ethics Tribunal of the Peruvian Press, noted biased coverage of the second-round electoral campaign by most Lima-based national press outlets. The EU report described the role of “most private media coverage” as “clearly biased in favor of Fujimori and against Castillo, without distinction between facts and opinion, undermining the right to truthful information.” The Ethics Tribunal of the Peruvian Press expressed concern for “headlines [...] that did not match the facts, interested opinions disguised as impartial analysis, and an unequal coverage of presidential campaign events in time and substance,” further warning that “this behavior seriously damaged citizens' trust in the Peruvian press.” Controversial actions included the May dismissal of leading television channel America Television's journalism director and the resignation of the hosts and reporters who worked in its premier political weekly show. The resigning staff accused the



channel of demanding they provide biased coverage in favor of candidate Keiko Fujimori.

**Violence and Harassment:** IPYS, the Association of Foreign Press of Peru (APEP), and the Ombudsman's Office denounced aggression and intimidation towards journalists who covered second-round campaign events in May and June as well as postelection political rallies in June and July.

**Censorship or Content Restrictions:** In August IPYS and APEP criticized the Castillo administration for limiting press access to official government events such as the swearing in of cabinet ministers. The Sagasti and Castillo governments limited press access to high-level events based on COVID-19 restrictions. In early December President Castillo reopened press access to the government palace.

**Nongovernmental Impact:** NGO representatives reported local figures linked to a wide array of political and economic interests threatened press freedom by intimidating local journalists who reported on those activities. This was particularly acute in areas with a strong presence of illegal activities.

## **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.

## **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 assembly may be suspended in areas of the VRAEM and La Pampa emergency zones, where elements of the Militarized Communist Party of Peru, drug traffickers, and illegal

miners operated.

### **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 with authorities. The constitution specifies the rights of freedom of unarmed assembly and association.

The government may restrict or prohibit demonstrations at specific times and places to ensure public safety and health. Police used tear gas and force occasionally to disperse protesters in various demonstrations. Although most demonstrations were peaceful, protests in some areas turned violent, resulting in one death as of November. In the context of the presidential elections in June, minor clashes between groups of protesters occurred, without evidence of improper use of force by police.

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

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

### **d. Freedom of Movement and the Right to Leave the Country**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

**In-country Movement:** The government maintained emergency zones including restrictions on movement in the VRAEM due to the presence of the Militarized Communist Party of Peru, and in La Pampa, due to illegal mining activities. These illegal actors at times interrupted the free movement of persons by establishing roadblocks in sections of the VRAEM. Individuals protesting extractive industry projects also occasionally established roadblocks throughout the country.

### **e. Status and Treatment of Internally Displaced Persons**

The Ministry of Women and Vulnerable Population's National Registry for Displaced Persons recognized 59,846 internally displaced persons (IDPs) in the

country, most of whom were victims of the 1980-2000 internal conflict. The registration and accreditation of IDPs provided for their protection, care, and humanitarian assistance during displacement, return, or resettlement. According to the government's Reparations Council, some IDPs who were victims of the 1980-2000 internal conflict experienced difficulties registering for reparations due to a lack of proper identity documents.

## **f. Protection of Refugees**

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

More than one million foreign-born persons, including immigrants, refugees, and asylum seekers, lived in the country as of November. Venezuelans were by far the largest nationality, numbering 1.29 million, according to government officials. On July 4, the Council of Ministers approved the implementing regulations for providing temporary status (*carnet de permiso temporal*, or CPP) to more than 350,000 irregular migrants of any nationality who registered with the National Migration Superintendency. The superintendency was reviewing these applications and issuing a one-year temporary migration status to the irregular migrants who applied for a CPP. Beneficiaries then had up to one year to adjust to another migration status.

**Access to Asylum:** The law provides for the granting of asylum or refugee status, and the government has established a system for protecting refugees. The government cooperated with UNHCR and recognized the Peruvian Catholic Migration Commission as the official provider of technical assistance to refugees. The commission also advised persons who sought asylum based on a fear of persecution. The government protected refugees on a renewable, year-to-year basis in accordance with commission recommendations.

**Durable Solutions:** The government does not have a formalized integration program for refugees, but it received persons recognized as refugees by other nations, granted refugee status to persons who applied from within the country, and

provided some administrative support toward their integration. UNHCR provided these refugees with humanitarian and emergency aid, legal assistance, documentation, and, in exceptional cases, voluntary return and family reunification.

**Temporary Protection:** As of June, the government had provided temporary protection to 560,000 individuals since 2017 while they awaited a decision on their refugee status. Nearly all were Venezuelans. On July 7, the government published a ministerial resolution to allow Venezuelan asylum seekers to apply for a humanitarian residency status while their asylum applications remained active with the foreign ministry. Humanitarian residency status holders may be employed or work independently. The migratory status, different from the CPP temporary residence permit, authorizes a residence of 183 days and is renewable if the conditions of vulnerability for which this residency was granted persist.

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

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

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

**Recent Elections:** Legislative and first-round presidential elections were held in April, and in June a presidential runoff election took place. Domestic and international observers, including the Organization of American States international observation mission, declared the elections to be fair and transparent. Pedro Castillo from the Free Peru party won and assumed the presidency on July 28, with Dina Boluarte as his vice president. Runner-up Keiko Fujimori from the Popular Force party and some of the party's political allies presented legal challenges to the second-round result, alleging fraud. Electoral authorities reviewed the challenges per the electoral rules for six weeks after the election and eventually dismissed them as unsubstantiated. Citizens elected all 130 members of the single-chamber Congress freely and fairly, according to observers.

**Political Parties and Political Participation:** By law groups that advocate the

violent overthrow of the government and adhere to ideologies “inherently incompatible with democracy” cannot register as political parties.

**Participation of Women and Members of Minority Groups:** No laws limit participation of women or members of minority groups in the political process, and they did participate. For the first time, political parties’ lists of congressional candidates were required to have gender parity and alternate male and female candidate names. The law also requires gender parity and alternating male and female names on party lists for regional assemblies, regional governor and vice governors, and presidents and vice presidents. This law raised the previous quota of 30 percent of each gender on congressional lists to 50 percent. Of the 130 members of Congress elected for the 2021-26 term, an all-time high of 47 (36 percent) were women. This was in comparison with 33 congresswomen during the 2020-21 complementary term, 36 during the dissolved 2016-19 term, and 28 in the 2011-16 term.

## **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. 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 remained under investigation for corruption, particularly in relation to the well publicized Odebrecht corruption scandal. There were widespread allegations of corruption in public procurement and in public-private partnerships. Large transportation and energy infrastructure contracts frequently generated high-ranking political interference and corruption, including by former presidents and regional governors. Companies also reported midlevel government officials skewed tender specifications to favor bidders who paid bribes. The COVID-19 pandemic and the urgent public procurement of medical supplies exacerbated the incidence of corruption.

There was evidence of widespread corruption in the judicial system. Prosecutors

continued an investigation launched following 2018 media reports of a judicial scandal involving allegations of influence peddling and graft by judges at multiple levels. Corruption was frequent at all levels of the PNP. Observers said the 2019 creation of the National Justice Commission, an independent body in charge of hiring and disciplining prosecutors and judges, was a step toward increased transparency and accountability. The commission had removed more than 100 officials for corruption as of September, including judges and prosecutors.

## **Section 5. Governmental Posture Towards 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.

**Government Human Rights Bodies:** The Ministry of Justice and Human Rights, and in particular the Vice Ministry of Human Rights and Access to Justice, oversaw human rights policies and issues at the national level. The Ministry of Interior, Ministry of Women and Vulnerable Populations, and Ministry of Labor and Employment Promotion also had significant human rights roles. These government bodies were generally considered effective. The independent Ombudsman's Office operated without government or party interference. NGOs, civil society organizations, and the public considered the Ombudsman's Office 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 and Societal Abuses**

### **Women**

**Rape and Domestic Violence:** The law criminalizes rape of men and women, including spousal rape. Penalties are a minimum of 14 years and a maximum of life in prison. Enforcement of sexual and domestic violence laws was inadequate, often at the discretion of the relevant authorities, according to gender-based violence experts. Undue dismissals of charges were allegedly also common. Nevertheless, emblematic sentences occurred, such as the November conviction of five men to 20-year prison sentences for the 2020 rape of a 21-year-old woman in Lima.

The law defines femicide as the crime of killing of a woman or girl based on expectations, assumptions, or factors distinctive to her gender. The minimum sentence for femicide is generally 20 years, or 30 years when the crime includes aggravating circumstances (e.g., crimes against minor, elderly, or pregnant victims). Police action to enforce the law was weak and slow, and prosecution of cases was often lengthy and ineffective. In August a man killed a 15-year-old girl in Jicamarca as revenge for accusing him of kidnapping her. The killer had been released in June from 15 months of preventive detention based on the kidnapping charges.

The law prohibits domestic violence; penalties generally range from one month to six years in prison. The law authorizes judges and prosecutors to prevent a convicted spouse or parent from returning to the family home. The law also 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 the law was lax, according to NGOs specialized in combatting gender-based violence.

Violence against women and girls, including sexual, physical, and psychological

abuse, was a serious, underreported national problem. A government health survey from 2020, published in May, stated 55 percent of women ages 15 to 49 had suffered physical (27 percent), psychological (50 percent), or sexual (6 percent) violence in the previous 12 months. The Ministry of Women and Vulnerable Populations reported more than 57,000 cases of violence against women between January and July, including 92 femicides and 79 femicide attempts; 46 percent of reported cases included physical violence, 56 percent included psychological violence, 46 percent included physical violence, and 15 percent included sexual violence. In most cases of femicide, the killer was the victim's partner or former partner. The Ombudsman's Office and the vice minister of women both expressed concern because the reported yearly figures represented a 16 percent increase over the same period in 2020.

The Ministry of Women and Vulnerable Populations operated 449 service centers for victims of domestic violence, sexual abuse, and other crimes including sex trafficking and their accompanying children. Some of these emergency centers provided basic short-term shelter as well as legal, psychological, and social services. NGO representatives expressed concerns regarding the quality and quantity of the program's services, particularly in rural areas. The ministry operated a toll-free hotline and implemented projects to sensitize government employees and citizens to the problem of domestic violence. The Public Ministry operated emergency accommodation that women and children survivors of domestic violence and other crimes, such as human trafficking, could use for short-term accommodation. The government made efforts to expand temporary shelters, but NGO representatives and members of Congress stated there were not enough.

Provincial prosecutorial offices are required by law to incorporate victims of sexual violence into the national Victims and Witness Assistance Program or to request required protection measures from the court; however, one NGO reported 15 percent of criminal prosecutors did not make these requests.

**Sexual Harassment:** Sexual harassment was a serious problem. The law defines sexual harassment as comments, touching, or actions of a sexual nature that are unsolicited and unwanted by the victim. The penalty for sexual harassment is up to eight years in prison. Sexual harassment in the workplace is also a labor rights violation subject to administrative penalties. Government enforcement of the law



was minimal, according to experts on gender-based violence.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Access to menstrual health remained a problem, particularly in rural and poor areas, due to lack of water and sanitation, high price of menstrual hygiene products, and a lack of information and awareness by teachers and employers.

Of births nationwide, 94 percent occurred in institutional facilities, such as hospitals, clinics, and health centers. This figure dropped to 84 percent in rural areas. Civil society organizations reported that women in rural areas, especially Quechua-speaking women, were distrustful of health-care providers, who sometimes imposed fines on indigenous women who gave birth at home. Civil society organizations that focused on sexual and reproductive health reported health-care staff at times threatened to withhold birth certificates, and indigenous women in rural areas experienced “verbal aggressions, mistreatment, the imposition of institutionalized and horizontal childbirth, and ignorance of their language and customs,” when seeking reproductive health services. Other factors, such as lack of sexual education, location of health centers, religious and social customs, and economic hardships, also contributed to the mistrust of the state health-care system among certain populations.

The law requires public health centers to provide free access to emergency contraception, which was also available at a cost in commercial pharmacies. Postsexual assault kits included emergency contraception. There were complaints of unnecessary delays in processing the kits. Health officials reported they provided a total of 1,325 kits to victims in 2020, an increase from 335 in 2019.

Both public and private health centers provided care for postabortion obstetric emergencies. Experts noted, however, that because nonaccidental abortion is criminalized, there was a risk of public health centers filing charges against the patient following the procedure. This was less of a concern at private health centers, leading to socioeconomic disparities regarding the legal implications of abortion.

Early motherhood continued to be a risk to adolescent health. The 2020 data from

the Demographic and Family Health Survey reported 8 percent of female adolescents ages 15-19 had been pregnant at least once (12 percent in rural areas).

**Discrimination:** The law provides for equality between men and women. It prohibits gender-based discrimination between partners regarding marriage, pregnancy, pay, and property rights. Despite this, the law obliges only women to wait 300 days after widowhood or divorce to remarry. The government did not always enforce the law effectively, according to specialized NGOs.

Arbitrary dismissal of pregnant women and workplace discrimination against women were common. The law stipulates women should receive equal pay for equal work, but women often were paid less than men for the same jobs.

## **Indigenous Peoples**

Indigenous persons remained politically, economically, and socially disadvantaged. Indigenous peoples in the Amazon region faced threats from land grabbers, narcotics traffickers, illegal miners, illegal loggers, and extractive industries that operated near or within indigenous land holdings. Indigenous persons were particularly at risk for both sex and labor trafficking. Many indigenous persons who lived in rural communities had limited access to justice, protection, or abuse prevention activities. Indigenous leaders claimed the national and regional governments did not adequately protect indigenous peoples and their property interests.

NGOs, fellow activists, the United Nations, and various government actors expressed concern regarding the increase in killings of environmental activists in the last two years (see section 1.a.). Activists claimed the slow, ineffective process for punishing harassers and killers effectively supported impunity.

Regulatory measures and protection responses were insufficient to deter threats posed to environmental rights defenders. Experts cited a need for public policy changes to provide effective protection, including a system in line with the Escazu Agreement, which deepens the linkage between human rights and environmental justice. They criticized Congress for refusing to ratify the Escazu Agreement in

2020, without further action as of November.

While the constitution recognizes that indigenous peoples have the right to own land communally, indigenous groups often lacked legal title to demarcate the boundaries of their land. Amazonian indigenous peoples continued to accuse the national government of delaying the issuance of land titles. By law indigenous communities retain the right of nonassignability, which is designed to prevent the title to indigenous lands from being reassigned to a nonindigenous person. Some indigenous community members, however, sold land to outsiders without the majority consent of their community.

The national government retains subsurface mineral rights for land nationwide. This led to disputes between local indigenous communities, the national government, regional governments, and various extractive industry interests. The law requires the government to consult with indigenous communities on proposed extractive projects or on changes to current extractive projects. The law also requires the government to produce a detailed implementation plan to facilitate government and private-sector compliance. Implementation of this law was considered by observers as somewhat effective.

The law requires the Ministry of Culture to establish a database of indigenous communities entitled to consultation. The ministry recognized 55 indigenous peoples entitled to “prior consultation” and confirmed the existence of another 14 indigenous “peoples in voluntary isolation” with very limited or no contact with the rest of the country, all of them in the Amazon rainforest. The government recognized 48 indigenous languages, including four Andean and 44 Amazonian languages. Quechua is the most widely spoken indigenous language, with 14 percent of citizens (4.4 million individuals) claiming it as their first language. Quechua is the co-official national language with Spanish, and access to essential public services and government action in Quechua should be available, but enforcement of this remained weak at the national level. Other significant indigenous languages include Aymara, Ashaninka, Awajun, and Shipibo.

From 2014 to 2019, the government initiated 24 prior consultations with various indigenous communities, which generated 487 agreements. Of the 24 prior

consultations, 10 were concluded and 14 continued at year's end.

NGOs, legal experts, and the Ombudsman's Office expressed concern that indigenous communities did not have sufficient training to engage effectively in consultations with the government and extractive industries.

## **Children**

**Birth Registration:** Citizenship is derived either by birth within the country's territory or from either of the parents. The state grants a national identification card and number upon birth, which is essential to access most public and many private services. More than 98 percent of resident citizens had a valid national identification card, but rural Amazonian areas had the lowest coverage, at 96 percent. Government and NGO representatives assessed that undocumented individuals were particularly vulnerable to labor exploitation, human trafficking, and other crimes.

**Child Abuse:** The law requires all government authorities, courts, and social service institutions to use the "best interests of the child" standard in decisions affecting abused children. The law imposes prison sentences ranging between six years and lifetime for crimes listed in the criminal code as "child abuse," including sexual exploitation of children, abusing minors, and child trafficking, but these crimes were sometimes confused with one another by prosecutors. Police did not always collect the evidence to meet the prosecutor's evidentiary burden, and judges regularly applied a higher evidentiary threshold than required, resulting in courts applying lesser, easier-to-prove charges, particularly in trafficking cases.

Violence against children, including sexual abuse, was a serious problem. The 2020 National Health Survey reported 9 percent of parents hit their children to punish them. At-risk children may be placed with guardians or in specialized residential facilities for different kinds of victims. Not all shelters provided psychological care, although the law requires it. In most regions residential shelters operated by provincial or district authorities were supplemented by shelters operated by schools, churches, and NGOs. As of November the Ministry of Women and Vulnerable Populations operated six specialized shelters for female

child trafficking victims that provided psychosocial, medical, and legal support.

**Child, Early, and Forced Marriage:** The legal minimum age of marriage is 18. The law allows a civil judge to authorize minors older than 16 to marry. According to the 2017 census, there were 55,000 married teenagers, 80 percent of them girls.

**Sexual Exploitation of Children:** The law prohibits child pornography and stipulates a penalty of six to 12 years' imprisonment and a fine. The law prohibits child sex trafficking, with prescribed penalties of 12 to 20 years in prison if the victim is 14 to 17, and at least 25 years if the victim is 13 or younger. Government officials and NGOs identified numerous cases of child sex trafficking during the year, although officials continued to classify many child sex trafficking crimes as sexual exploitation, which provides fewer protections to victims. While the COVID-19 pandemic brought most tourism to a halt following its onset in 2020, the country remained a destination for child sex tourism, and NGO representatives reported an increase in online sexual exploitation of children during the pandemic.

Although the country has strong laws to protect children, it frequently had serious problems with enforcement. Media reported on the sex and labor trafficking of minor girls and women in the illicit gold-mining sites of the remote Amazonian Madre de Dios region. Law enforcement operations against illegal mining sites were not effective in identifying victims and removing them from exploitation.

The minimum age for consensual sex is 14. A conviction for rape of a child younger than 14 by an adult carries a sentence of life imprisonment. The law also prohibits adults from using deceit, abuse of power, or taking advantage of a child in a vulnerable situation to have sex with a person younger than 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/reported-cases.html](https://www.state.gov/abduction-for-providers/legal-reports-and-data/reported-cases.html).

## **Anti-Semitism**

Estimates of the Jewish population ranged from 3,000 to 4,000 persons. Jewish community leaders said some individuals engaged occasionally in anti-Semitic conspiracy theories on social media. The government and both private and government-run media generally did not engage in this activity.

## **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 disabilities, defined as individuals with a physical, sensory, or mental impairment that limits one or more major life activities. The law establishes infractions and punishments for noncompliance. It provides for the protection, care, rehabilitation, security, and social inclusion of persons with disabilities, and it mandates that public spaces and government internet sites be accessible to them. It requires the inclusion of sign language or subtitles in all educational and cultural programs on public television and in media available in public libraries. The government did not always effectively enforce the law.

The law requires companies to have job selection processes that give persons with disabilities the opportunity to apply for jobs on equal terms with persons without disabilities. The law also requires employers to provide employees up to 56 hours of leave per year to accompany their relatives with disabilities to medical appointments.

The government failed to enforce laws protecting the rights of persons with mental disabilities. NGO representatives and government officials reported an insufficient number of medical personnel providing services in psychiatric institutions. Nevertheless, awareness of mental health issues was growing, including through public messaging from the Ministry of Health and in public remarks by the

president of the council of ministers in October.

Accessibility in public transportation and streets and highways varied widely according to locality, and while accessible infrastructure exists, it was not always reliable. Local government regulations and construction licenses require public spaces and buildings to be accessible for persons with disabilities. Nevertheless, problems facing persons with disabilities continued, due to frequently inaccessible or suboptimal infrastructure. They also faced hurdles in their access to education, insufficient employment opportunities, and employment discrimination, according to government and civil society leaders. The Ombudsman's Office reported that approximately 87 percent of children with disabilities did not attend school before the COVID-19 pandemic, and that 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.

Electoral authorities took measures for accessibility in the 2021 presidential and congressional elections, including making accessible voting booths available and offering braille voting materials, among others.

## **HIV and AIDS Social Stigma**

Persons with HIV and AIDS faced widespread discrimination and harassment with respect to employment, housing, and social inclusion. The Ministry of Health implemented policies to combat such discrimination. HIV and AIDS affected transgender women and girls disproportionately, and many transgender women could not obtain health care because they lacked national identification cards reflecting their gender and appearance.

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

Discrimination, harassment, and abuse of transgender individuals, including by police and other authorities, was a serious problem. Lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) persons were particularly vulnerable to human trafficking and largely lacked access to comprehensive protective

services.

The constitution includes a broad prohibition against discrimination, and individuals may file legal claims of discrimination based on sexual orientation or gender identity. Few national laws, however, mention sexual orientation and gender identity as explicit categories for protection from discrimination, which left room for interpretations that overlook rights for LGBTQI+ persons. Some regions and municipalities, including Piura, La Libertad, Loreto, and San Martin, had regulations that explicitly prohibit discrimination against LGBTQI+ persons and provide administrative relief but not criminal sanctions.

The law does not provide transgender persons the right to update their national identity documents to reflect their gender identity, instead requiring a long, expensive legal challenge process with unpredictable results. Transgender persons, therefore, often did not have valid national identification cards, which limited their access to government services. In September Dania Calderon became the country's first transgender woman to change her gender marker. The case was atypical, because Calderon changed the gender on her national identity document without gender-reassignment surgery. In 2020 courts ordered the National Identity and Civil Status Registry to allow citizens to change their gender, name, and picture to reflect their current identity, but the registry had allowed only for name changes and would approve changing one's gender on the document only after receiving proof of completed gender-reassignment surgery.

Government officials, NGO representatives, journalists, and civil society leaders reported official and societal discrimination against LGBTQI+ persons in employment, housing, education, law enforcement, and health care based on sexual orientation and gender identity. NGO representatives reported law enforcement authorities repeatedly failed to protect and, on occasion, violated the rights of LGBTQI+ citizens.

## **Section 7. Worker Rights**

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

With certain limitations, labor laws and regulations provide for freedom of



association, the right to strike, and collective bargaining. The law prohibits intimidation by employers and other forms of antiunion discrimination. It requires reinstatement or compensation of workers fired for union activity. The law allows workers to form unions without seeking prior authorization. By law at least 20 workers must join to form an enterprise-level union, and 50 workers to form a sector-wide union or federation. Some labor activists viewed this requirement as prohibitively high, particularly for small and medium-sized businesses, which represented 96.5 percent of all businesses.

Long-term employment under short-term contract schemes was widespread, including in the public sector. The use of unlimited consecutive short-term contracts made the exercise of freedom of association and collective bargaining difficult. In March Congress approved the progressive elimination of “administrative service contracts,” a hiring method of short-term contracts with diminished rights widely used in the public sector, even for de facto permanent positions.

Private-sector labor law sets out nine categories of short-term employment contracts that companies may use. The law sets time limits on contracts in each category and has a five-year overall limit on the consecutive use of short-term contracts. A sector-specific law covering parts of the textile and apparel sectors exempts employers from this five-year limit and allows employers to hire workers indefinitely on short-term contracts. Following the November-December 2020 protests against an additional exceptional arrangement to the agricultural labor law, Congress passed a revised agricultural promotion law that allows for hiring through consecutive short-term contracts, compensation, and paid-leave benefits for agricultural workers through 2031. The new law sets mechanisms to compensate ceased workers, gradually raises workers’ participation in revenue sharing (from current 5 percent to 10 percent in 2027), and sets explicit requirements for the provision of transportation, meals, sanitation services, and emergency health care. It also forbids child labor, gender discrimination, and sexual harassment.

Street-cleaning union leader Isabel Cortez was elected to Congress in April, representing Lima with the Together for Peru party, the first time a leader from this union was elected to Congress. In 2020 Cortez filed a criminal complaint of

physical aggression by unidentified persons who threatened her, allegedly due to her public demands for better labor conditions. The case remained under investigation. In August Cortez was selected to chair the labor commission in Congress.

The law allows unions to declare a strike in accordance with their governing documents, with prior notice of five days for the private sector, 10 days for the public sector, and 15 days for emergency services. Essential services must also receive the approval of the Ministry of Labor to strike and provide enough workers during a strike to maintain operations. Neither private-sector nor public-sector institutions may legally dismiss workers who strike.

NGOs that specialize in labor affirmed the government did not effectively enforce the law on freedom of association, collective bargaining, or other labor laws. Penalties were not commensurate with penalties for other laws involving denials of civil rights, such as discrimination. Workers faced prolonged judicial processes and lack of enforcement following dismissals for 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 always enforce it effectively. The law prescribes penalties of eight to 15 years' imprisonment for labor trafficking crimes committed against adults and six to 12 years' imprisonment for exploitation crimes classified as forced labor. The government had a separate commission, interministerial protocol, and national plan for combating forced labor and child labor. Penalties were not commensurate with penalties for analogous crimes, such as kidnapping.

Forced labor crimes continued to occur in domestic service, agriculture, forestry, gold mining and related services, factories, brick making, and organized street begging, as well as in illegal activities such as counterfeit operations. Illegal logging affected many indigenous communities, who found themselves trapped in forced labor. The self-styled drug-trafficking organization Militarized Communist Party of Peru, which authorities considered the successor of the terrorist organization Shining Path, used force and coercion to recruit children to serve as combatants or guards in the VRAEM. It also used force and coercion to subject

children and adults to forced labor in agriculture, cultivation or transportation of illicit narcotics, and domestic servitude, as well as to carry out terrorist activities. In July the government approved the *National Policy against Trafficking in Persons 2021-2030*, which replaced the previous plan for 2017-21.

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 all the worst forms of child labor. The legal minimum age for employment varies from 12 to 18 depending on the type of job, the job conditions, and the hours per day. Employment must not affect school attendance. A permit from the Labor Ministry is required for persons younger than 18 to work legally. Parents must apply for the permit, and employers must have a permit on file to hire a minor. The law forbids children younger than 18 to work in domestic service.

The Ministry of Labor and the National Labor Inspectorate are responsible for enforcing child labor laws – in coordination with police and prosecutors when forced child labor crimes are involved – but enforcement was not effective, especially in the informal sector where most child labor occurred. Labor law enforcement agencies lacked sufficient inspectors and training to adequately combat child labor, and the government did not provide complete information on labor or criminal enforcement efforts against the worst forms of child labor. Penalties were not commensurate with penalties for analogous crimes.

A government report found the prevalence of child labor was 22 percent in 2018; however, 59 percent of households in extreme poverty had a child laborer. In addition there were four times more child laborers in rural areas than in urban areas. Among the population of working children, 57 percent worked in agriculture, and 21 percent worked in small-scale or street retail.

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 prohibits employment discrimination based on race, skin color, sex, religion, political opinion, national origin, citizenship, social origin, disability, age, language, or social status. Nonetheless, NGOs working on labor and discrimination issues reported employment discrimination on race, skin color, national origin, social origin, disability, language, and social status continued. The law does not specifically identify discrimination based on sexual orientation, gender identity, HIV-positive status, or other communicable diseases.

Discrimination based on sexual orientation and gender identity occurred. 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 law prohibits discrimination against domestic workers and prohibits any requirement by employers for their domestic workers to wear uniforms in public places. The National Council for the Integration of Persons with Disabilities oversees compliance with employment quotas for persons with disabilities. Compliance with quotas varied.

The government did not effectively enforce the law on discrimination. Penalties were not commensurate with laws related to civil rights, such as election interference. NGO representatives and labor rights advocates noted discrimination cases often went unreported.

The most recent Ombudsman's Office report, issued in 2017, found that 28 percent of working-age women were not performing paid labor, instead performing unpaid domestic work such as childcare, compared with 10 percent of working-age men. The COVID-19 pandemic aggravated the gap, with a study by the Peruvian Economy Institute showing that women's paid employment, which fell by 17 percent compared with a 10 percent drop for men's paid employment during the first months of the COVID-19 pandemic in 2020, had as of July recovered only by

37 percent, compared with a 100 percent recovery of men's paid employment.

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

**Wage and Hour Laws:** The law provides for a national minimum wage, which was above the official estimate for the poverty income level. The government did not effectively enforce wage laws, and penalties were not commensurate with those for similar crimes, such as fraud.

The law provides for a 48-hour workweek and one day of rest for workers in the formal sector. 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 30 calendar days of paid annual vacation. In 2020 Congress approved legislation that aligns the labor rights of domestic workers with the rights of regular, formal-sector workers. The new law replaces previous laws that granted diminished rights to domestic workers, such as less vacation time and smaller yearly bonuses, and elevates the minimum age to perform domestic service jobs to 18.

Noncompliance with the law is punishable by fines. According to a labor NGO and labor experts, many fines went uncollected, in part because the government lacked an efficient tracking system and at times lacked political will. Labor inspectors have the authority to make unannounced inspections and initiate sanctions.

**Occupational Safety and Health:** The law has fines and criminal sanctions for occupational safety and health (OSH) violations. The government did not effectively enforce OSH laws, and penalties for these violations were not commensurate with penalties for analogous crimes such as negligence. The number of labor inspectors was not sufficient to enforce compliance. Criminal penalties are limited to cases where employers deliberately violated OSH laws, and where labor authorities had previously and repeatedly notified employers who subsequently did not adopt corrective measures. The law requires workers to prove an employer's culpability before they can obtain compensation for work-related injuries.

**Informal Sector:** Many workers in the informal economy, approximately 70 percent of the total labor force, received less than the minimum wage. Most

informal workers were self-employed. Nearly 90 percent of Venezuelan migrant workers were in the informal sector, most of them in suboptimal conditions and earning less than the minimum wage due to their lack of proper documentation and inability to validate their academic credentials. Workers in the informal economy were at increased risk of exploitation in sex or labor trafficking.