

# PERU 2017 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Peru is a constitutional, multiparty republic. Pedro Pablo Kuczynski, leader of the Peruanos Por el Kambio (Peruvians for Change) party, won the June 2016 national elections in a vote widely considered free and fair.

Civilian authorities generally maintained effective control over the security forces.

The most significant human rights issues included allegations of torture by some members of the police; allegations of improper influence and corruption of the judiciary; criminalization of libel, although no such charges were filed this year; government corruption at all levels; violence against women and children; and forced labor at illegal mining sites.

The government took steps to investigate and in some cases prosecute or otherwise punish public officials accused of abuses. Officials sometimes engaged in corrupt practices with impunity.

### **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.

After taking office in July 2016, the Kuczynski administration launched an investigation into allegations that members of the Peruvian National Police (PNP) committed the extrajudicial killings of more than 27 criminal suspects from 2012 to 2015 as part of a scheme to receive awards and promotions. According to the press, Ministry of Interior, and Public Ministry, an “irregular” group of approximately nine PNP officers and subofficers allegedly paid informants to entrap individuals and provide regular police units with false intelligence, setting the stage for deadly confrontations. In May and July, a court in the Piura Region granted the lead prosecutor’s request for preventive detention of 14 PNP officials. Eight received 20 months’ preventive detention, and six were placed under house arrest.

On August 18, the National Criminal Court sentenced retired army colonels Edgard Paz Avedano and Humberto Obregoso Talavera to 23 and 30 years in prison, respectively, for torturing and murdering 53 persons at the Los Cabitos military base in the Ayacucho Region in 1983. The court ruled the government held partial responsibility and must pay reparations, since the former officers acted on orders to “disappear” suspected Shining Path members. Paz and Obregoso failed to appear in court, and the government issued warrants for their arrest. The court cleared a third former military officer for lack of evidence and issued suspended sentences for two others because they suffered from dementia.

In a similar case, in December 2016 the National Criminal Court sentenced retired army colonel Donald Vilchez Velez to 18 years in prison for the disappearance of six persons detained at the Julcamarca military base in the Huancavelica Region in 1990. Vilchez appealed the court’s decision.

The Shining Path conducted several terrorist acts during the year that caused the death of eight security force members, including an April 9 attack on army officers carrying electoral materials the day before the first round of national elections.

### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities. The government continued to address disappearances that occurred during the internal conflict of 1980-2000. The Truth and Reconciliation Commission estimated more than 15,000 persons disappeared during this period.

A 2016 law that requires the Ministry of Justice to oversee the recovery, identification, and return of the “disappeared” human remains from the internal conflict continued in the early implementation stage. The Justice Ministry established a Directorate for Disappeared Persons, which developed an action plan but had not begun the process of recovering, identifying, and returning human remains.

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

The law prohibits such practices. Local nongovernmental organizations (NGOs), however, continued to report that torture was a problem, primarily within the police force, and stated the government did not effectively prevent and punish those who committed such abuses.

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

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

Prison conditions remained harsh for most of the country's inmates, due to overcrowding, poor sanitation, inadequate nutrition and health care, and corruption among guards, which included guards smuggling weapons and drugs into the prisons. Guards received little to no training or supervision.

Physical Conditions: As of June the National Penitentiary Institute reported the national penitentiary system had 84,741 prisoners in 69 facilities designed for 36,956 prisoners. Examples of particularly overcrowded prisons included San Juan de Lurigancho men's prison, which held 9,646 prisoners in a facility designed for 3,204, and the Santa Monica women's prison in Chorrillos, which held 740 prisoners in a facility designed for 450.

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

Most prisons provided access to basic medical care, but there was a shortage of doctors, and inmates complained of having to pay for medical attention. In February 2016 a foreign citizen prisoner died due to lack of medical treatment. Tuberculosis and HIV/AIDS reportedly remained at near-epidemic levels. The Ombudsman's Office reported insufficient accessibility and inadequate facilities for prisoners with disabilities. Prisons lacked specialized medical equipment needed for prisoners with disabilities, such as wheelchairs and transfer beds. Limited access to adequate psychological care for prisoners with mental disabilities was also reported.

Administration: Independent and government authorities investigated allegations of mistreatment in prisons and made the results of their investigations public.

Independent Monitoring: The government permitted monitoring visits by independent human rights and international humanitarian law observers. International Committee of the Red Cross officials made unannounced visits to inmates in 15 different prisons and detention centers. During the year Ombudsman's Office representatives made 49 visits to Lima and provincial prisons.

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

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

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

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

Corruption and a high rate of acquittals in civilian courts for military personnel accused of crimes remained serious problems. The Public Ministry conducted investigations, although access to evidence held by the Ministry of Defense was not always forthcoming. The Ombudsman's Office can also investigate cases and submit conclusions to the Public Ministry for follow-up. The Ministries of Interior and Defense employed internal mechanisms to investigate allegations of security force abuse. The Ministry of Interior's Office of Inspector General reported that it disciplined approximately 33,400 police officers from January to September, compared with 7,400 in the first eight months of 2016. Analysts attributed the increase in disciplinary actions to ministry reforms in the police force.

Police continued operating under a use-of-force doctrine adopted in 2015. When a police action causes death or injury, the law requires an administrative

investigation and notification to the appropriate oversight authorities. The law is applicable to all police force members and defines the principles, rules, situations, and limitations for police use of force and firearms.

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

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

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

Pretrial Detention: Lengthy pretrial detention continued to be a problem. As of June authorities had sentenced only 49,014 of the 84,741 detainees held in detention facilities and prisons. Delays were due mainly to judicial inefficiency, corruption, and staff shortages. The law requires the release of prisoners held more than nine months whom the justice system has not tried and sentenced; the period is 18 months for complex cases.

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

The constitution provides for an independent judiciary. NGOs and other advocates alleged the judiciary often did not operate independently, was not consistently impartial, and was subject to political influence and corruption. Authorities generally respected court orders from the judiciary.

### **Trial Procedures**

The law provides for the right to a fair and public trial, and the judiciary generally enforced this right, although reports of corruption in the judicial system were common. The government continued the implementation, begun in 2006, of a criminal procedure code designed to streamline the penal process. As of October

the government had introduced the code in 28 of the 31 judicial districts, although implementation in the largest judicial districts--Lima and Callao--remained pending.

The law presumes all defendants are innocent. The government must promptly inform defendants in detail of the charges against them and provide defendants a trial without undue delay. Defendants also have the right to communicate with an attorney of their choice or have one provided at public expense. State-provided attorneys, however, often had poor training. Although the law grants citizens the right to trial in their own language, interpreting and translation services for non-Spanish speakers were sometimes unavailable. This deficiency primarily affected indigenous persons living in the highlands and Amazon regions. In a case from 2015, however, a court in Puno issued its decision in the Aymara indigenous language, which is prevalent in the region. As of October the decision was on appeal to a court in Lima, and any additional court findings would use Aymara.

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

### **Political Prisoners and Detainees**

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

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

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

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

There were no reports that the government failed to respect these prohibitions. The government's declaration of an emergency zone in the Valley of Apurimac, Ene, and Mantaro Rivers, due to drug trafficking and criminal activity, suspended the right to home inviolability.

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

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

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

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

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

Censorship or Content Restrictions: Some media, most notably in the provinces outside of Lima, continued to practice self-censorship due to fear of local government reprisal.

Libel/Slander Laws: The law criminalizes libel. In contrast with 2016, there were no reports that officials intimidated reporters with possible libel charges.

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

### **Internet Freedom**

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

According to the National Statistics and Information Institute, 62 percent of the population used the internet (including cell phone users). The International Telecommunication Union reported that 45 percent of the population used the internet in 2016.

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

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

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

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

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

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

The government may restrict or prohibit demonstrations in specific times and places to assure public safety or health. Police used tear gas and occasional force to disperse protesters in various demonstrations, such as the nationwide teacher strike in August. Although most protests were peaceful, protests in some areas turned violent, resulting in two deaths and 82 injuries from January to September (see section 6, Other Societal Violence and Discrimination).

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

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

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

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with the Office of the UN High Commissioner for



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

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

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

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

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

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

### **Protection of Refugees**

The government and civil society organizations estimated there were between 20,000 and 100,000 foreigners residing under irregular circumstances. The number of Venezuelans entering the country continued to increase. The government created permanent residence permits for these persons, enabling them to reside and work in the country legally. The government granted residence permits to approximately 12,000 Venezuelans who entered Peru prior to February. It approved a second phase of permits for those who entered between February and July. Local representatives with the International Organization for Migration reported 78,000 Venezuelans entered Peru from Ecuador between January and September. Of these Venezuelan entrants, 65 percent declared their final destination was Peru, 29 percent Chile, and 5 percent Argentina.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The government cooperated with UNHCR and recognized the Catholic Migration Commission as the official provider of technical assistance to refugees. The commission also advised citizens who feared persecution and sought asylum abroad. The government provided protection to refugees on a renewable, year-to-year basis, in accordance with commission recommendations. Asylum requests continued to grow, from approximately 400 cases in 2015, to 2,000 in 2016, to 10,000 as of October. Approximately 95 percent of the asylum requests during the year came from Venezuelan citizens. There were 32 Syrian refugees as of September.

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

Temporary Protection: As of October the government provided temporary protection to more than 1,000 individuals awaiting a decision on their refugee status.

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

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

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

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

Political Parties and Political Participation: Political parties operated without restriction or outside interference, although many remained weak institutions

dominated by individual personalities. By law groups that advocate the violent overthrow of the government and express ideologies incompatible with democracy cannot register as political parties.

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

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

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

Corruption: Several high-profile political figures were under investigation for corruption. Former president Ollanta Humala and first lady Nadine Heredia were in pretrial detention while under investigation on money-laundering and corruption charges. The government requested the provisional arrest of former president Toledo from the United States for allegedly accepting bribes during his administration.

There were allegations of widespread corruption in the judicial system. Although the new criminal procedure code was not fully implemented in Lima and Callao, the government applied it to corruption cases in these two judicial districts. In 2014 authorities arrested former regional governor Cesar Alvarez for homicide and corruption-related crimes and well-connected businessman Rodolfo Orellana for fraud and money laundering. Both were accused of bribing vast networks of police officers, judges, prosecutors, and other public officials to protect themselves from prosecution. In 2015 authorities dismissed then attorney general Carlos Ramos Heredia for impeding investigations into corruption networks orchestrated by Alvarez and Orellana. As of October the government's cases against Alvarez and Orellana were pending. A special congressional investigative commission, the Public Ministry, and the National Magistrates Council continued investigations into the networks.

Members of Congress enjoy congressional immunity from prosecution for any acts committed during their time in the legislature. In the case of flagrant crimes, the judicial branch may request that Congress lift immunity and allow the arrest of a

member. By law congressional immunity does not apply to crimes committed before the member was sworn in, but in practice it impeded most prosecutions.

Corruption in prisons remained a serious problem. Observers cited numerous cases of guards cooperating with criminal bosses who oversaw the smuggling of guns and drugs into prisons. In addition there were several reports of military corruption, impunity, and resistance in providing evidence on military personnel under investigation for human rights abuses committed during the country's internal conflict.

Financial Disclosure: By law most public officials must submit personal financial information to the Office of the Comptroller General prior to taking office and periodically thereafter. The Comptroller General's Office monitors and verifies disclosures, but the law was not strongly enforced. Administrative sanctions for noncompliance range from 30-day to one-year suspensions, include bans on signing government contracts, and culminate with a ban from holding government office. The comptroller makes disclosures available to the public. A 2016 law enables the Superintendency of Banks' Financial Intelligence Unit to access individual or corporate tax records and bank accounts for public officials under investigation for money laundering and other crimes.

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

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

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

Government Human Rights Bodies: The Ministry of Justice and Human Rights, and in particular the Vice Ministry of Human Rights and Access to Justice, oversees human rights issues at the national level. The Ministry of Interior and the

Ministry of Women and Vulnerable Populations also have significant human rights roles.

The independent Office of the Ombudsman operated without government or party interference, and NGOs, civil society organizations, and the public considered it effective. An acting ombudsman led the institution until August 6, when Congress elected a permanent ombudsman to the position.

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

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

### **Women**

Rape and Domestic Violence: The law criminalizes rape of men or women, including spousal rape, with penalties of six to eight years in prison. Femicide is a crime and carries a minimum sentence of 15 years. Enforcement of these laws, however, was often ineffective.

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

Violence against women and girls--including rape, spousal abuse, and sexual, physical, and psychological abuse--were serious national problems. The government reported that 68 percent of women had suffered at least one incident of serious physical, sexual, or psychological abuse. Additionally, the Ombudsman's Office found that 40 percent of police stations did not have adequate facilities or specialized training.

The Ministry of Women and Vulnerable Populations continued to operate service centers with police, prosecutors, counselors, and public welfare agents to help

victims. NGOs expressed concerns about the program's quality and quantity, particularly in rural areas. The ministry operated a toll-free hotline and implemented projects to sensitize government employees and the citizenry to domestic violence.

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

Sexual Harassment: Sexual harassment remained a serious problem. Sexual harassment is defined as unsolicited comments, actions, and touching of a sexual nature that is unwanted by the female or male victim. Sexual harassment in the workplace, however, is not a criminal offense but rather a labor rights violation subject to administrative punishment. Government enforcement was minimally effective.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: [www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/](http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

Discrimination: The law provides for equality between men and women and prohibits discrimination against women with regard to marriage, divorce, and property rights. While the law prohibits discrimination in employment and educational opportunities based on gender, there was a persistent underrepresentation of women in high-ranking positions, and the arbitrary dismissal of pregnant women and workplace discrimination was common. The law stipulates that women should receive equal pay for equal work, but women often were paid less than men. The National Statistics Bureau estimated that as of September, women received 71 percent of the average income of men.

## **Children**

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

Obtaining a national identity document requires a birth certificate, which was a problem in the most remote rural areas, where many births occurred at home and

were not registered. As a result poor indigenous women and children in these areas disproportionately lacked identity documents. Undocumented citizens faced social and political barriers to accessing government services, including running for public office or holding title to land. Government representatives and NGOs assessed that undocumented citizens were particularly vulnerable to labor exploitation, human trafficking, and crime.

Education: The constitution stipulates that primary and secondary education is compulsory, universal, and free through the secondary level. Fees for parental associations, administration, and educational materials greatly reduced access for lower-income families.

Child Abuse: Children continued to suffer from violence and sexual abuse, which were serious nationwide problems.

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

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

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

The minimum age for consensual sex is 14. A conviction of rape of a minor younger than 14 carries penalties ranging from 25 years to life in prison. The law prohibits child pornography, and the penalty for conviction of involvement in child pornography is four to 12 years' imprisonment and a fine. The law also prohibits adults from using deceit, abuse of power, or the vulnerability of a teenager to have sex with a minor under 18.

In September 2016 the Permanent Chamber of the Supreme Court absolved a bar owner who had employed a 14-year-old girl found engaged in commercial sexual

exploitation. Following widespread condemnation of the court ruling, the National Judiciary Council launched an investigation into the decision and the Permanent Chamber's five-judge panel. The judge who chaired the panel and issued the decision resigned in March.

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 [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

### **Anti-Semitism**

Estimates of the Jewish population ranged from 3,000 to 4,000 persons. There were no reports of violent incidents or cases of harassment against the Jewish population.

### **Trafficking in Persons**

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

### **Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The law establishes infractions and sanctions for noncompliance. The law also provides for the protection, care, rehabilitation, security, and social inclusion of persons with disabilities; mandates that public spaces be free of barriers and accessible to persons with disabilities; and provides for the appointment of a disability rights specialist in the Ombudsman's Office. The law mandates that the government make its internet sites accessible for persons with disabilities and requires the inclusion of sign language or subtitles in all educational and cultural programs on public television and in media available in all public libraries.

The government devoted limited resources to law enforcement and training on disability issues, and many persons with disabilities remained economically and socially marginalized.



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

While government officials improved enforcement of the rights of persons with disabilities during the year, the country's disability community still faced immense challenges due to inaccessible infrastructure, minimal access to education, insufficient employment opportunities, and discrimination, according to government and civil society leaders. In 2016 the Ombudsman's Office reported approximately 87 percent of children with disabilities did not attend school and 76 percent of persons with disabilities did not work. One government survey reported that 70 percent of employers stated they would not hire a person with a disability.

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

The law requires the government to treat all citizens equally and prohibits discrimination based on race, national origin, or language. Nevertheless, persons of indigenous and African descent (Afro-Peruvian) in particular faced societal discrimination and prejudice. Indigenous peoples and Afro-Peruvians remained underrepresented in leadership positions in government, business, and the military.

### **Indigenous People**

Indigenous communities remained politically, economically, and socially marginalized. The constitution and laws stipulate that all citizens have the right to use their own language before any authority through an interpreter. Quechua, Aymara, and other indigenous languages share official status with Spanish in regions where citizens primarily speak these languages. Nevertheless, the government dedicated insufficient resources for interpretation services, impeding the full participation of indigenous persons in the political process.

Of the approximately 200,000 persons (less than 1 percent of the population) without national identity documents, the government reported the majority were indigenous persons living in remote areas. NGOs and civil society leaders continued to report that some government officials allegedly sought bribes in exchange for documents, which indigenous persons were unable or unwilling to pay. Without national identity cards, they were unable to exercise basic rights.

While the constitution recognizes that indigenous persons have the right to own land communally, indigenous groups often lacked legal title to demarcate the

boundaries of their lands. Amazonian indigenous peoples in particular continued to accuse the national government of delaying the final allocation of their land titles. By law local communities retain the right of unassignability. Some indigenous community members, however, sold land to outsiders without the majority consent of their community.

By law the national government retains the subsurface mineral rights for land nationwide, which frequently caused disputes between the local indigenous communities, national government, regional governments, and the various extractive interests. The law also requires the government to establish a database of indigenous communities entitled to consultation and produce a detailed implementation guide to facilitate government and private-sector compliance. Indigenous NGOs, legal experts, and the Ombudsman's Office continued to express concerns that indigenous communities did not have sufficient training to engage in consultations with the government and extractive industry. As of November the government had concluded 18 agreements with indigenous communities and companies to undertake extractive projects.

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

Many indigenous persons and others with indigenous physical features faced societal discrimination and prejudice. They were often the victims of derogatory comments and illegal discrimination in public places.

The Ministry of Culture continued to promote interpreter training, implementing guidelines for providing public services, and administrative processes for creating indigenous land reserves. The Ministry of Education operated bilingual schools in the Amazon. The public television channel launched two daily news programs in the Quechua and Aymara indigenous languages during the year.

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

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

Government officials, NGOs, journalists, and civil society leaders reported that widespread official and societal discrimination against persons occurred based on their sexual orientation and gender identity in employment, housing, education, and health care. Police harassed and abused transgender women. NGO studies revealed that law enforcement authorities repeatedly failed to protect, and on occasion violated, the rights of LGBTI citizens.

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

In 2016 the Ombudsman's Office became the first public institution to issue a report dedicated to LGBTI human rights. Studies conducted by local NGOs amplified the ombudsman's report, finding that 95 percent of LGBTI citizens had experienced some type of violence or discrimination because of their status as LGBTI persons.

In February police blocked LGBTI activists from accessing Lima's central square for an annual demonstration called "Besos Contra Homofobia" (Kisses Against Homophobia). The government prohibits all protests in the central square. Nevertheless, peaceful events previously had taken place in the square without incident, and LGBTI activists argued that police actions singled out LGBTI citizens and discriminated against their use of a public space.

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

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

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

The Ombudsman's Office reported 109 active social-conflict cases as of August, compared with 154 in 2016. The report found that most conflicts involved socioenvironmental issues, with mining-related incidents accounting for 64 percent

of the cases. An August land dispute in Cuna Mori, Piura Region, left one protester dead and 10 injured.

Indigenous leaders and environmental activists working on socioenvironmental disputes were harassed and killed. Madre de Dios-based environmentalist Freddy Vracko reported receiving death threats in April for his environmental preservation efforts against illegal miners and pursuit of justice for the killing of his conservationist father in 2015.

In May the Supreme Court ruled socioenvironmental activist Maxima Acuna did not misappropriate land involved in her family's dispute with a multinational mining corporation. Acuna, who received the Goldman Environmental Prize in 2016, and her family alleged the company had threatened and harassed them since 2011 in an effort to take their land.

## **Section 7. Worker Rights**

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

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

The law specifies that public- and private-sector workers have the right to organize, bargain collectively, and strike, but it stipulates that the right to strike must be "in harmony with broader social objectives." The law prohibits judges, prosecutors, police officers, and military members from forming or joining unions. New unions must register in the Ministry of Labor and Employment Protection's Sub-directorate of Conflict Prevention under a process that takes up to four days, during which time employers may dismiss unionized workers and leaders.

Two nationwide strikes by public school teachers and medical doctors demanding increased salaries and benefits occurred during the year. The high-profile strikes caused social and political disruptions but were largely peaceful.

The law allows unions to declare a strike in accordance with their governing documents. Private- and public-sector union workers must give advance notice of a strike to the employer and the Ministry of Labor. Private-sector workers must give advance notice of at least five working days, and public-sector workers must give at least 10 days' notice. The law also allows nonunion workers to declare a strike with a majority vote as long as the written voting record is notarized and announced at least five working days prior to a strike. Unions in essential services are permitted to call a strike but must provide 15 working days' notice, receive the approval of the ministry, obtain approval of a simple majority of workers, and provide a sufficient number of workers during a strike to maintain operations. Private enterprises and the public institutions cannot fire workers who strike legally. The private sector may, however, fire illegally striking workers on the fourth day of their unapproved absence. The public sector can fire illegal striking employees sector through an administrative procedure.

Unless there is a pre-existing labor contract covering an occupation or industry as a whole, unions must negotiate with companies individually. The law establishes processes for direct negotiations and conciliation. If these mechanisms fail, workers may declare a strike or request arbitration. The law outlines the process that authorizes the use of arbitration to end collective labor disputes. The law gives a party the ability to compel the other party to submit to arbitration (whether worker- or employer-initiated) whenever either of the parties cannot reach an agreement in the first collective bargaining negotiation, or a party does not engage in good faith during collective bargaining by delaying, hindering, or avoiding an agreement. If the parties disagree over whether a prerequisite for binding arbitration was met, the law also allows a party to submit the matter to independent, nongovernmental arbitrators for an initial decision.

The law requires businesses to monitor their contractors with respect to labor rights and imposes liability on businesses for the actions of their contractors. The law governing the general private-sector labor regime sets out nine different categories of short-term employment contracts that companies may use to hire workers based on particular circumstances. The law sets time limits for each of the categories and contains a five-year overall limit on the consecutive use of short-term employment contracts when contracts from different categories are used together. A sector-specific law covering the nontraditional export sectors (e.g., fishing, wood and

paper, nonmetallic minerals, jewelry, textiles and apparel, and the agriculture industry) exempts employers from this five-year limit and allows employers in those sectors to hire workers on a series of short-term contracts indefinitely, without requiring a conversion to the permanent workforce.

The government did not effectively enforce freedom of association and collective bargaining laws. Resources remained inadequate, including for the Ministry of Labor and its National Superintendency of Labor Inspection (SUNAFIL), although the government increased SUNAFIL's budget during the year and opened a new regional office in Cusco. Penalties for violations of freedom of association and collective bargaining range from 7,400 to 74,000 soles (\$2,280 to \$22,800). Such penalties were insufficient to deter violations and, according to labor experts and union representatives, were rarely enforced. Workers continued to face prolonged judicial processes and lack of enforcement following dismissals resulting from trade union activity. For example, NGOs reported that emblematic cases of labor arbitration dating from 2012 remained suspended due to delays in the judicial appeals processes. NGOs also reported instances of noncompliance with arbitrators' decisions.

Significant delays in the collective bargaining process remained a common obstacle to compliance with worker rights to bargain collectively. Employers often showed a lack of interest in concluding agreements. Workers employed under laws to promote the textile, apparel, and agriculture industries faced obstacles, such as allegations of delayed negotiations and legal threats, to exercise the right to collective bargaining.

NGOs reported some employers used subcontracting to avoid creating direct employment relationships. Such subcontracting also limited the size of a company's permanent workforce, making it more difficult to reach the 20-employee threshold necessary to form a union.

NGOs continued to report management interference in labor-management health and safety committees. Management sometimes interfered in the election of worker representatives, held committee sessions without full worker representation, and failed to notify elected worker representatives when labor inspectors conducted workplace inspections.

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

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

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

SUNAFIL officials conducted inspections to identify forced labor. The Ministry of Labor and SUNAFIL provided training sessions to SUNAFIL and regional labor inspectors around the country to raise awareness of forced labor and the applicable law. The government continued to implement the 2013-17 national plan to combat forced labor. Labor experts repeated their criticisms of the plan for not containing a dedicated national budget, which made implementation difficult.

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

In June a warehouse fire in downtown Lima exposed an informal counterfeit lightbulb workshop allegedly engaged in human trafficking for labor exploitation. Two workers locked inside the rooftop shipping container-based workshop died in the fire. The incident brought national attention to the hazards of unregulated counterfeit operations as facilitators of dangerous labor practices. In July the court sentenced the husband and wife who operated the workshop to nine months' detention to await trial. The husband was being held in jail, and his wife was under house arrest. According to the testimony of three former workers, including a minor, the owners locked workers in the shipping container for 12-hour shifts and paid 10 soles (\$3.10) per day. The Attorney General's Office assigned two prosecutors from the criminal and human trafficking divisions to oversee the case.

Police rescued 63 women human trafficking victims, including one minor and 29 foreigners, from sexual and labor exploitation during July and September raids conducted in the regions of Madre de Dios and Piura.

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

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

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

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

The Ministry of Labor and SUNAFIL are responsible for enforcing child labor laws, but enforcement was not effective, especially in the informal sector in which the majority of child labor occurred. The ministry and SUNAFIL lacked the resources needed to execute necessary inspections, and interministerial coordination was often lacking. Inspectors conducted visits without notice to areas where persons or organizations had reported child labor problems. By law the penalties for illegal child labor include fines from 192,500 soles (\$59,400) for microbusiness to 385,000 soles (\$118,800) for small and medium-sized businesses and 770,000 soles (\$237,600) for larger enterprises. In addition to these fines, violators are subject to civil and criminal legal proceedings.

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



on reducing child labor by improving educational services, providing mechanical tools, and providing cash transfers to families in rural areas.

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

Child labor remained a serious problem, especially in the informal sector. In 2014 the National Statistics and Information Institute (INEI) estimated 1.65 million children were working in exploitative labor conditions. In 2016 the Ministry of Labor released a follow-up report on the 2015 child labor survey, and its findings indicated that more than 323,000 minors ceased working and left the labor force from 2012 to 2015. The worst forms of child labor generally occurred in the informal sectors, including in commercial sexual exploitation (see section 6, Children), gold mining, brick and fireworks manufacturing, stone extraction, forestry, and agriculture, including the production of Brazil nuts and coca. In many cases children worked alongside their parents in a family business, usually in rural areas and sectors cited above.

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

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

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

The law prohibits discrimination with respect to employment based on race, color, sex, religion, political opinion, national origin, citizenship, social origin, disability, age, language, or social status. The law does not specifically identify discrimination based on sexual orientation and/or gender identity, HIV-positive status, or other communicable diseases. The law prohibits discrimination against domestic workers and any requirement by employers for their domestic workers to

wear uniforms in public places. The law establishes the following employment quotas for persons with disabilities: 3 percent for private businesses with more than 50 employees and 5 percent for public-sector organizations. The National Council for the Integration of Persons with Disabilities oversees compliance with employment quotas for persons with disabilities.

The government did not effectively enforce the law. Penalties for violations include fines and imprisonment, but they were not sufficient to deter violations. NGOs and labor rights advocates noted that discrimination cases often went unreported to authorities, in part due to a lack of confidence in the legal system to address the case.

Numerous violations of provisions prohibiting discrimination against domestic workers, particularly a clause that prohibits employers from requiring their workers to wear uniforms in public places. The Ministry of Labor, local NGOs, and several unions continued campaigns to inform domestic workers about their rights and employment benefits.

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

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

The statutory monthly minimum wage for formal workers was 850 soles (\$260) per month. INEI estimated the poverty line to be 315 soles (\$97) a month per person, although it varied by region. The average monthly income, set in September 2016, was 1,640 to 1,867 soles (\$505-\$575) for men and 1,352 soles (\$415) for women.

The law provides for a 48-hour workweek for formal workers and one day of rest, and it requires premium pay for overtime. 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 certain rights and benefits to which adult domestic workers are entitled, such as an eight-hour workday, no work on public holidays, 15 days of paid annual vacation, and salary bonuses in July and December. The law grants administrative service contract workers who meet minimum service requirements 30 days of vacation, June and December bonuses, and up to three

months of severance pay in the case of unjustified dismissal.

The government sets occupational health and safety standards appropriate for the main industries in the country, but sector experts reported that government resources and expertise were not sufficient to maintain appropriate health and safety standards. The law allows workers to remove themselves from situations that endanger health or safety without jeopardy to their employment. The law also enables employers to outsource the management of health and safety to third-party service providers and restrict democratically elected worker representatives from obtaining leave to attend to their safety and health duties, including training.

The government often did not devote sufficient personnel and financial resources to enforce occupational safety and health regulations and other labor laws. As of November SUNAFIL reported having 376 labor inspectors. In July SUNAFIL opened a new office in Cusco and had additional offices in Lima, Huanuco, La Libertad, Loreto, Cajamarca, Ica, Moquegua, Tumbes, Ancash, and Arequipa. The Ministry of Labor and regional governments had an additional 90 labor inspectors that coordinate with SUNAFIL.

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

The law provides for fines and criminal sanctions for occupational safety and health violations. In cases of infractions, injury, or deaths of workers or subcontractors, the penalty is one to four years’ imprisonment. Criminal penalties

are limited to those cases where employers “deliberately” violated safety and health laws and where labor authorities had previously notified employers who chose not to adopt measures in response to a repeated infraction. The law requires that a worker prove an employer’s culpability to obtain compensation for work-related injuries.

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

Employers frequently required long hours from domestic workers and paid low wages. NGOs and union officials continued to report allegations of abuse of subcontracted workers in the areas of wage and hour violations and associational rights. In 2015 a group of 34 outsourced workers at the Aceros Arequipa steel plant in Pisco, who had previously filed a labor inspection complaint, were told their contracts were not compliant, and they were all dismissed. As of October the union was seeking their reinstatement.

Union members and labor-sector experts reported that regional and national statistical registers did not reflect the number of severe and fatal injuries from workplace accidents that occurred in the mining, electrical, and construction sectors. Workplace labor, health, and safety committees continued to develop across the country. Labor experts and NGOs expressed concern about what they considered an unreasonably high threshold for holding employers accountable for workplace injuries and for not maintaining health and safety standards.