

PERU 2020 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Peru is a constitutional, multiparty republic. President Martin Vizcarra assumed the presidency in 2018 following the resignation of then president Pedro Pablo Kuczynski, under whom Vizcarra was vice president, on corruption allegations. Kuczynski had won the 2016 national elections in a vote widely considered free and fair. Using a provision of the constitution, President Vizcarra dissolved Congress in September 2019 and called for new legislative elections. Free and fair legislative elections took place on January 26 to complete the 2016-21 legislative term, as mandated by the constitution. On November 9, Congress impeached President Vizcarra for alleged corruption, under the “permanent moral incapacity” clause of the constitution. President of Congress Manuel Merino assumed the presidency on November 10 due to the lack of vice presidents but resigned on November 15 following a week of widespread protests. Congress then elected Francisco Sagasti as its new president on November 16, and he consequently became president of the republic.

The Peruvian National Police, who report to the Ministry of Interior, maintain internal security. The armed forces, reporting to the Ministry of Defense, are responsible for external security but also have some domestic security responsibilities in exceptional circumstances, such as the COVID-19 national state of emergency declared in March, and in designated emergency areas. Civilian authorities maintained effective control over the security forces. Members of the security forces were accused of committing abuses during protests this year, particularly during November 10-15 protests following the impeachment of former president Vizcarra.

Significant human rights issues included: arbitrary detentions (including of minors); serious government corruption at all levels, including in the judiciary; and sex and labor trafficking.

The government took steps to investigate and in some cases prosecute or otherwise punish public officials accused of abuses, including high-level officials. Nonetheless, corruption and perception of impunity remained prevalent and were a major concern in public opinion. President Sagasti publicly committed to support the investigation and prosecution of those responsible for abuses during the November 10-15 protests. The Public Ministry, which is the autonomous public

prosecutor's office, and the Inter-American Commission on Human Rights are also assessing the events of November 10-15.

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 widespread allegations that Peruvian National Police (PNP) members committed arbitrary or unlawful killings during demonstrations following the impeachment of former president Vizcarra. Confirmed victims during the November 14 protest were Inti Sotelo and Brian Pintado. As of December the Public Ministry was investigating the two deaths.

In February courts confirmed a 2019 order for 36 months of pretrial detention for former PNP commander Raul Prado Ravines, accused of leading a killing squad. The case involved the alleged killing of more than 27 criminal suspects during at least nine separate police operations from 2012 to 2015 to cover up police corruption and to generate awards and promotions. For their roles in the operations, 14 police officers were in preventive detention (eight in prison and six under house arrest) awaiting trial. As of September Prado Ravines's location was unknown.

The Shining Path domestic terrorist group conducted five separate terrorist attacks against military patrols that killed five security force members and two civilians and wounded 12 soldiers in the Valley of the Apurimac, Mantaro, and Ene Rivers (VRAEM).

Human rights and environmental activists expressed concern for their own safety while working in areas with widespread natural resource extraction, which often included illegal logging and mining. Activists alleged local authorities and other actors engaging in these activities harassed the activists, especially in areas where officials faced corruption charges and suspicion of criminal links. In April criminals who illegally sell land they do not own, often in nature reserves or indigenous areas, allegedly killed an indigenous environmental activist in Puerto Inca, Huanuco. In September an environmental activist was killed in the Madre de Dios region, where illegal mining is prevalent. Activists claimed the slow, ineffective process for punishing harassers effectively supported 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 widespread reports the police employed them, particularly against protesters during then president Merino's November 10-15 presidency. National and international organizations, members of Congress, the press, and citizens alleged that these acts included: injury of more than 200 persons, including three journalists; the mistreatment of detainees, including degrading and sexually abusive practices; and the deployment of covert police agents who used violence against peaceful demonstrators. In December an Inter-American Commission on Human Rights (IACHR) mission to the country expressed concern regarding widespread reports of disproportionate violence and intimidating tactics by police against protesters, journalists, ombudsman staffers, and volunteer health workers.

Local and international nongovernmental organizations (NGOs) and the Office of the Ombudsman reported that police used cruel and degrading treatment and 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 about their alleged abusers, and those who did so purportedly had difficulty obtaining judicial redress and adequate compensation.

Impunity was a significant problem in the security forces. Following the November protests, the Sagasti government committed the government to launch internal investigations and to support the Public Ministry to investigate and sanction those responsible for police abuses during the protests. As of December the cases were under investigation. The Sagasti administration's first attempts at police reform shortly after the protests faced strong political resistance in Congress and within the police force itself.

Prison and Detention Center Conditions

Prison conditions were generally harsh due to overcrowding, improper sanitation, inadequate nutrition, poor 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 August the National Penitentiary Institute (INPE) reported the prison system had 89,760 prisoners in 69 facilities designed for a total of 40,137 prisoners. Of inmates, 37 percent were in pretrial detention. The population at the Lurigancho penitentiary, the largest prison in the country, was 3.7 times its prescribed capacity.

Assaults on inmates by prison guards and fellow inmates occurred. An April riot at the Castro-Castro prison resulted in the deaths of 11 inmates.

Inmates had only intermittent access to potable water. Bathing facilities were inadequate, kitchen facilities were unhygienic, and prisoners often slept in hallways and common areas due to the lack of cell space. INPE established medical isolation areas at each facility, but it was unclear if these spaces were sufficient to house affected inmates and reduce COVID-19 exposure for the rest of the general population in each facility. Prisoners with money or other resources had access to cell phones, illegal drugs, and better meals prepared outside the prison; prisoners who lacked funds experienced more difficult conditions.

Most prisons provided limited access to medical care, which resulted in delayed diagnoses of illnesses. The COVID-19 pandemic aggravated this situation. Inmates lacked access to required daily medications for chronic conditions such as diabetes and heart disease, leading to subsequent complications such as blindness and limb amputation. Restrictions on visitations due to COVID-19 further limited inmate access to resources, since visits by relatives were a frequent source of food, medicine, and clothing for inmates.

Inmates complained of having to pay for medical attention. Tuberculosis, HIV, and AIDS reportedly remained at near-epidemic levels. The Ombudsman's Office reported insufficient accessibility and inadequate facilities for prisoners with disabilities. Prisoners with mental disabilities and mental health conditions usually lacked access to adequate psychological care.

Prisons became a critical COVID-19 hotspot during the pandemic, and the Ombudsman's Office urged the government in April to preserve life, health, and security inside prisons. As of July more than 2,600 inmates tested positive for COVID-19, and 249 died of the disease. The Ministry of Justice and Human Rights took urgent measures to reduce crowding and improve sanitary conditions in detention centers. As of July the government had pardoned or commuted the sentences of 1,929 inmates who met the eligibility conditions and released them. Eligibility conditions for pardons and commutations included a sentence for minor

offenses only and having already served two-thirds of the jail sentence. Persons serving for crimes such as murder, rape, drug trafficking, and terrorism were not eligible for release. Additionally, 2,000 of 2,700 persons serving sentences for alimony debts were released upon debt payment.

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. International Committee of the Red Cross officials and representatives of the Ombudsman's Office made unannounced visits to inmates in prisons and detention centers. The Ministry of Women and Vulnerable Populations and UNICEF monitored and advised on policies for juvenile detention centers.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge in court the lawfulness of his or her arrest or detention. Following the November 9 protests and change in government, citizens, domestic and international organizations, and members of Congress expressed concern that police did not follow lawful arrest and detention procedures during widespread political protests. The government constitutionally suspended the right to freedom from arrest without warrant in designated emergency zones and during the national state of emergency for COVID-19.

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 of a crime in the act. Only judges may authorize detentions. The press, national and international organizations such as the IACHR, the Ombudsman's Office, members of Congress, and citizens alleged police did not respect these procedures during the November 10-15 protests.

The government constitutionally suspended the right to freedom from arrest without warrant during the national state of emergency declared on March 16 to fight the spread of COVID-19. In March and April, 55,000 persons were arrested for not complying with curfews, social isolation, and other measures to fight the pandemic. The PNP detained offenders and charged significant fines.

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; authorities respected this requirement.

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: There were reports of unlawful detentions by police forces, including plainclothes officers, during November 10-15 that allegedly led to the temporary disappearances of dozens of citizens who protested during this period. Some protesters alleged they were held for up to 72 hours. As of December the government was investigating these allegations.

Pretrial Detention: Lengthy pretrial detention remained a problem. According to an April report by INPE, 37 percent of prisoners were being held under pretrial detention. The length of pretrial detention occasionally equaled but did not exceed the maximum sentence of the alleged crime. Delays were due mainly to judicial inefficiency, corruption, and staff shortages. In accordance with the law, courts released prisoners held more than nine months (up to 36 months in complex cases) whom the justice system had not tried and sentenced. The courts factored pretrial detention into final sentences.

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 March, Congress approved legislation that prevents the use of pretrial detention on police officers who kill or injure “while complying with their duties.”

e. Denial of Fair Public Trial

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

Following a 2018 influence-peddling scandal involving judges and politicians, then president Vizcarra implemented measures to address judicial corruption, including replacing the National Council of Magistrates with a reformed version called the National Board of Justice. The National Council of Magistrates, the body in charge of selecting, evaluating, and punishing judges and prosecutors, was at the heart of the corruption scandal. The new National Board of Justice took office in January. It maintains the same responsibilities as the council but selects its members through a competitive public application process.

Trial Procedures

The law provides for the right to a fair and public trial, and the judiciary generally enforced this right, although reports of corruption in the judicial system were common. The government continued the implementation, begun in 2006, of the transition from an inquisitorial to an accusatory legal system and the application of a new criminal procedure code to streamline the penal process. As of September the government had introduced the code in 32 of the 34 judicial districts. Implementation in the two largest judicial districts, Lima Center and Lima South, 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 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 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 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 national state of emergency declared on March 16 for COVID-19 allowed authorities to inspect places suspected of violating public health regulations such as curfew times and prohibition of large gatherings. The government's continued declaration of an emergency zone in the VRAEM due to drug trafficking and terrorist activity suspended the right to home inviolability in that region.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

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

The March-June COVID-19 quarantine regulations included journalists and reporters as one of the essential services allowed to transit for work. The National Association of Reporters (ANP) expressed concern for the precarious work conditions for reporters, which included reporting without adequate protective equipment from areas with a high prevalence of COVID-19. The ANP reported 82

reporters died due to COVID-19 between March and August, 35 of whom contracted the disease while reporting from the field.

Violence and Harassment: The Institute of Press and Society (IPYS) and the ANP issued 21 alerts for violence against and harassment of reporters, including threats from local government representatives and a leader of illegal coca growers. IPYS and the ANP reported journalist Daysi Lizeth Mina Huaman went missing on January 26, the day of congressional elections. Mina Huaman was last seen in Santa Rosa, Ayacucho, in the VRAEM region, which had a strong drug-trafficking presence, where she went to vote and conduct interviews about the elections. It was unclear whether her disappearance was related to her work as a journalist.

IPYS denounced PNP aggression towards journalists who covered local protests in July, as well as injuries suffered by three journalists beaten by police during the November protests. It also denounced recurring death threats and online harassment of journalists by anonymous assailants and alleged business and political representatives.

Censorship or Content Restrictions: There were no reports of official censorship. NGOs reported that some media, most notably in locations with a strong presence of illicit activities, practiced self-censorship due to fear of reprisal by local authorities with links to those activities. During the November protests, police detained a man and a woman working at a Lima print shop for producing protest materials. The woman alleged she was sexually assaulted during detention.

Nongovernmental Impact: NGO representatives reported that 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. Due to movement restrictions and prohibitions on large gatherings under the

COVID-19 national state of emergency, academic and cultural events were held virtually or cancelled. These prohibitions did not affect the content of the events.

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful, unarmed assembly and association, and the government generally respected these rights. Under the COVID-19 national state of emergency that began on March 16, the government imposed exceptional restrictions on movement and assembly, including curfews, mandatory quarantines, and bans on travel and assembly. Citizens, domestic and international organizations, and members of Congress claimed the rights of peaceful assembly and demonstration were not respected in the context of November political protests.

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. Under the COVID-19 national state of emergency, the government suspended the right of assembly between March 16 and June 30. As of September large-scale gatherings remained suspended. Freedom of assembly remained suspended in the VRAEM and La Pampa emergency zones, where armed elements of the Shining Path terrorist group and drug traffickers operated.

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 10 deaths as of November. Allegations of abuses against the right of freedom of peaceful assembly were widespread during the November protests.

c. Freedom of Religion

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

d. Freedom of Movement

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

In-country Movement: The government maintained an emergency zone including restrictions on movement in the VRAEM due to the presence of the Shining Path, drug trafficking, and transnational organized crime.

Drug 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 extractive industry projects also occasionally established roadblocks throughout the country.

e. Status and Treatment of Internally Displaced Persons

The Ministry of Women and Vulnerable Populations' National Registry for Displaced Persons recognized 59,846 displaced persons in the country, most of whom were victims of the 1980-2000 internal conflict. The registration and accreditation of displaced persons provided for their protection, care, and humanitarian assistance during displacement, return, or resettlement. According to the government's Reparations Council, some internally displaced persons 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 August. Venezuelans were the largest nationality, numbering more than one million. Of the Venezuelans, 58 percent were women. The government granted 486,000 temporary residence permits (PTPs) in 2017 and 2018 to Venezuelans, after which it discontinued the program. PTP holders may legally reside and work in the country before their PTP expires while they transition to another, regular migratory status. These other statuses include a "special migratory resident status" designed for PTP holders who can certify economic activity and no criminal record. This status adjustment results in a foreign resident status and an identification equivalent in most ways to a

Peruvian citizen's national identification. As of September an estimated 200,000 Venezuelans held regular foreign resident identification. Although the last valid PTPs were set to expire during the year, the government extended the validity of all identification documents to December 31, 2020, due to the COVID-19 pandemic.

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 Peru, 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 September the government provided temporary protection to more than 500,000 individuals since 2017 while they awaited a decision on their refugee status. Nearly all of them were Venezuelan. The government provided these individuals with temporary residence permits and authorization to work while they waited for a more permanent legal status, such as approval of their asylum application or change to foreign resident migratory status. Following the COVID-19 national state of emergency, the government extended until December 31 the validity of asylum-seeker identification documents set to expire during the year.

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: Elections were held in April 2016 for Congress and president. Domestic and international observers declared the elections to be fair and transparent, despite controversy over the exclusion of two presidential candidates for administrative violations of election-related laws. Pedro Pablo Kuczynski won and assumed the presidency in July 2016, with Martin Vizcarra as first vice president. President Kuczynski resigned in March 2018, a few days before his impeachment hearing on corruption allegations. Pursuant to the constitution, in March 2018 First Vice President Vizcarra assumed the presidency following Kuczynski's resignation. Congress voted to remove Vizcarra under the "permanent moral incapacity" clause of the constitution, and President of Congress Manuel Merino assumed the interim presidency on November 10. Merino resigned on November 15 following widespread protests and the deaths of two protesters. Congress appointed Francisco Sagasti as its president on November 16, and per the constitution's order of succession, Sagasti then assumed the presidency of the country.

The country held free and fair legislative elections on January 26, following President Vizcarra's constitutional dissolution of Congress in September 2019. Political opponents of Vizcarra presented a challenge in the Constitutional Tribunal to the dissolution. In January the Constitutional Tribunal ruled the president's dissolution of Congress was constitutional, but it recommended amendment of the relevant articles of the constitution for clarity.

Political Parties and Political Participation: By law groups that advocate the violent overthrow of the government and adhere to ideologies intrinsically incompatible with democracy cannot register as political parties. In September the government enacted a constitutional amendment that prohibits individuals with a criminal record from running for public office.

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. In June Congress approved a law requiring gender parity in political parties' lists of congressional candidates, in party lists to elect regional assemblies, in party tickets to elect regional governors and vice governors, and in party tickets to elect the president and vice presidents. This law raises a previous quota of 30 percent for each gender in congressional lists to 50 percent. Of the 130 members of Congress, 33 were women in the 2020-21 term, compared with 36 during the dissolved 2016-19 term, and 28 in the 2011-16 term. The advent of Sagasti's government brought more women leaders to the fore. As of December the judiciary and the Ministry of Defense were led by women for the first time.

Women also served as prime minister, attorney general, head of the Constitutional Court, and interim president of Congress.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials; however, the government did not 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 remained under investigation for corruption, particularly in relation to the well publicized Odebrecht corruption scandal.

Authorities transferred two-time presidential runner-up Keiko Fujimori from preventive detention to house arrest in May during the COVID-19 pandemic, while they continued investigating her for obstruction of justice and money laundering of campaign donations.

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 that paid bribes.

There was evidence of widespread corruption in the judicial system. Prosecutors continued an investigation launched following 2018 media reports on a judicial scandal involving allegations of influence peddling and graft by judges at all levels. Corruption was frequent at all levels of the PNP.

Financial Disclosure: Elected public officials and high-level appointed officials must submit personal financial information to the Office of the Comptroller General prior to taking office and periodically thereafter. The comptroller monitors and verifies disclosures, but the law was not strongly enforced. Administrative punishments for noncompliance may include suspension between 30 days and one year, a ban on signing government contracts, and a ban on holding government office. The comptroller makes disclosures available to the public.

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.

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 issues at the national level. The Ministry of Interior and the Ministry of Women and Vulnerable Populations also had significant human rights roles. These government bodies were generally considered effective.

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

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

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

Women

Rape and Domestic Violence: The law criminalizes rape of men and women, including spousal rape. Penalties are a minimum of 14 years and a maximum of life in prison. Enforcement was inadequate.

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 20 years, and 30 years when the crime includes aggravating circumstances (e.g., crimes against minor, elderly, or pregnant victims). Enforcement of the law was slow, and prosecution of cases was often ineffective.

The law prohibits domestic violence; penalties 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.

Violence against women and girls, and sexual, physical, and psychological abuse were serious, underreported national problems. A government health survey from 2019 released in June stated 57 percent of women ages 15 to 49 had suffered physical, psychological, or sexual violence in the previous 12 months. COVID-19 quarantine laws posed increased challenges, since a substantial proportion of violence against women took place in the home. Between March and July, the Ministry of Women and Vulnerable Populations reported more than 36,000 cases of violence against women, including 36 femicides, 32 attempted femicides, and 800 cases of sexual abuse. As of August more than 1,200 women and girls were reported as "missing" during the COVID-19 quarantine, placing them at high risk of human trafficking or other forms of violence and exploitation.

The Ministry of Women operated service centers for victims of domestic violence and sexual abuse and their accompanying children. These centers provided short-term shelter as well as legal, psychological, and social services. NGO representatives expressed concerns about 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 the citizenry to domestic violence. The Public Ministry operated emergency spaces that women and children could use for short-term accommodation, and the government made efforts to expand temporary shelters, but NGO representatives and members of Congress stated there were not enough.

The Ministry of Women's mobile emergency teams, composed of social workers and mental health professionals, aided women in highly vulnerable situations during the strict quarantine period from March 16 to May 31. The ministry reported attending to victims of rape (more than half of whom were minors) in that period, while acknowledging a shortage of rape kits. During the first week of quarantine in March alone, the ministry received 2,436 complaints through its hotline, responded to one femicide, and coordinated with police to intervene in 207 conflicts.

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 victim. Sexual harassment is a crime with a penalty of 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.

In February courts confirmed the 2019 sentence of a man for sexual harassment and imposed a sentence of four years and eight months in prison. This was the first ever conviction for sexual harassment of an adult victim.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Discrimination: The law provides for equality between men and women. It prohibits gender-based discrimination between partners regarding marriage, divorce, pregnancy, pay, and property rights. The government did not enforce the law effectively.

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

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 are essential to access most public and many private services. Rural Amazonian areas had the lowest coverage of national identification cards. 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 between six years and lifetime prison sentences for crimes listed as "child abuse," including sexual exploitation of children, abusing minors, and child trafficking, but these crimes were sometimes confused with each other. 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 nationwide problem. 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. The Ministry of Women opened four specialized shelters between January and February 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 a minimum penalty of eight to 15 years in prison if the victim is age 18 or older, 12 to 20 years in prison if the victim is 14 to 17, and 25 to 35 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 tourism in general to a halt, the country remained a destination for child sex tourism, and NGO representatives reported an increase in online sexual exploitation 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 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.

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

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

Anti-Semitism

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 mandates that public spaces and government internet sites to 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 generally did not 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.

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

Indigenous People

Indigenous persons remained politically, economically, and socially disadvantaged. They faced threats from land grabbers, narcotics traffickers, illegal miners, illegal loggers, and extractive industries that operated near or within indigenous land holdings, often in the Amazon. 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 expressed concerns that the national and regional governments did not adequately protect indigenous peoples and their property interests. In April an indigenous Kakataibo leader was killed in Puerto Inca, Huanuco, allegedly by criminals illegally selling land. In August, three indigenous Kukama citizens died after a clash with police while protesting oil extraction operations in Bretana, Loreto.

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 unassignability, which should 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 somewhat effective.

The law requires the Ministry of Culture to establish a database of indigenous communities entitled to consultation. As of August the ministry recognized 55 indigenous peoples as 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. From 2014 to 2019, the government initiated 24 prior consultations with various indigenous communities, which generated 487 agreements. Of those 24 prior consultations, 10 had concluded and 14 continued.

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

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

Discrimination, harassment, and abuse of transgender women and girls, including by police and other authorities, was a problem. During the COVID-19 national state of emergency, there was evidence of mistreatment of transgender citizens by police, particularly during a two-week period in which an emergency decree mandated that men and women were only allowed on the streets on alternate days. Lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons were particularly vulnerable to human trafficking and largely lacked access to comprehensive protective services.

The constitution prohibits discrimination, and individuals can file legal claims of discrimination based on sexual orientation or gender identity. Few national laws mention sexual orientation and gender identity as explicit categories for protection from discrimination, which left room for interpretations that overlook rights for LGBTI persons. Some regions and municipalities, including Piura, La Libertad, Loreto, and San Martin, have regulations that explicitly prohibit discrimination against LGBTI 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. Transgender persons, therefore, often did not have valid national identification cards. This limited their access to government services. In August courts ordered the National Identity and Civil

Status Registry to allow citizens to change their gender, name, and picture to reflect their current identity. As of November the case was under appeal by the government.

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

HIV and AIDS Social Stigma

Persons with HIV and AIDS faced discrimination and harassment, including societal discrimination, with respect to employment, housing, and social inclusion. The Ministry of Health implemented policies to combat discrimination based on HIV and AIDS status. 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.

Other Societal Violence or Discrimination

In June the Ombudsman's Office reported 140 active social conflicts and 50 latent ones. Social conflicts around extractive industries and socioenvironmental issues were 67 percent of the total number of social conflicts. Half of all social conflicts related to mining. As of August, 119 conflicts escalated to violence, resulting in a total of six deaths. In August media denounced physical abuses by police against citizens protesting mining operations in Espinar, Cusco. As of August the case remained under investigation.

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 be affiliated to form an enterprise-level union and 50 workers must be affiliated 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.

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. The law provides for hiring, compensation, and paid-leave benefits for agricultural workers until 2031, including consecutive short-term contracts.

In August a leader of a street-cleaning union denounced physical aggression by unidentified persons who threatened her, allegedly due to her public demands for better labor conditions. As of August the case remained under investigation.

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 a sufficient number of workers during a strike to maintain operations. Neither private-sector nor public-sector institutions may legally dismiss workers who strike.

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.

Penalties for violations of freedom of association and collective bargaining were insufficient to deter violations and, according to labor experts and union representatives, were rarely enforced. 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 and six to 12 years' imprisonment for a separate crime of forced labor. Penalties were not commensurate with penalties for analogous crimes, such as kidnapping. Forced labor crimes continued to occur in domestic service, agriculture, forestry, mining and related services, factories, counterfeit operations, brick making, and organized street begging. Illegal logging, which had a devastating impact on the landscape and the environment, affected many indigenous communities who found themselves trapped in forced labor. The narcoterrorist organization Shining Path used force and coercion to recruit children to serve as combatants or guards. Shining Path also used force and coercion to subject children and adults to forced labor in agriculture, cultivating or transporting illicit narcotics, and domestic servitude, as well as to carry out terrorist activities.

Officials from the National Labor Inspectorate participated in joint operations with police that led to the identification of victims of forced labor. The government also continued to implement the *National Plan of Action against Trafficking in Persons 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. In September Congress approved legislation that forbids children younger than 18 to be domestic workers.

The Ministry of Labor and the National Labor Inspectorate are responsible for enforcing child labor laws, but enforcement was not effective, especially in the informal sector where most child labor occurred. 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. The law does not specifically identify discrimination based on sexual orientation, gender identity, HIV-positive status, or other communicable diseases. 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 and enforcement was not always effective.

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

A report by the Ombudsman's Office found that in 2017, 28 percent of working-age women were not performing paid labor, compared with 10 percent of working-age men.

e. Acceptable Conditions of Work

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 September, 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. The new law elevates the minimum age to perform domestic service jobs to 18.

Noncompliance with labor law is punishable by fines. Penalties were not commensurate with those for similar crimes, such as fraud. 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.

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.

In January a tanker truck transporting liquefied petroleum gas exploded in Lima, killing two and injuring dozens. Observers said the event was caused by a lack of enforcement of security and safety standards. In late June another explosion took place in an industrial complex in Arequipa where inspectors were testing a boiler, resulting in three dead workers and two injured.

During the COVID-19 pandemic, many retail workers expressed concerns regarding inadequate health and safety protections, saying employers gave them only one mask per week. More than 20 workers alleged they were unjustly dismissed after asking for better protection against COVID-19.

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. 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.