

ECUADOR 2017 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Ecuador is a constitutional, multiparty republic with an elected president and unicameral legislature. On April 2, voters elected President Lenin Moreno from the ruling party Alianza PAIS (Proud and Sovereign Fatherland) and chose members of the National Assembly in elections that were generally free and fair, marking a successful democratic transfer of power after the two-term presidency of Rafael Correa.

Civilian authorities maintained effective control over the security forces.

The most significant human rights issues included instances of arbitrary arrest or detention; corruption and progovernment bias on the part of judges that affected the right to fair public trial; unlawful interference with privacy, family, home, or correspondence; restrictions on freedom of expression, including for the press; censorship and the use of criminal libel against media companies and journalists, although the situation improved during the second half of the year; limits on freedom of association; official corruption at high levels of government; and children engaged in the worst forms of child labor, sometimes as a result of human trafficking.

The government took steps to investigate and prosecute officials who committed human rights abuses, although in cases of public interest, political interference often resulted in 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 reports that police committed arbitrary or unlawful killings typically involving excessive use of force during routine law enforcement activities. A human rights nonprofit organization reported that on June 15 in Las Lajas, two police officers shot and killed Daniel Elias Jumbo Quizhpe while conducting an antismuggling operation. The two officers are under criminal investigation.

b. Disappearance

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

On March 17, the UN Committee on Enforced Disappearances called on the government to treat all pending cases of disappearances as forced disappearances. On June 14, a court held a hearing on the 2003 case known as “Las Dolores” in which 11 police officers were accused of the forced disappearance and extrajudicial killing of eight individuals, including Johnny Gomez Balda and Cesar Mata. The decision to move to trial came after a 14-year investigation; however, the judge decided to prosecute the defendants for the crime of kidnapping, which carries a punishment of five to seven years, instead of treating the crime as forced disappearance, which carries a punishment of 22 to 26 years.

In 2016 the Office of the Attorney General determined that law enforcement officers committed arbitrary detention in all 18 of the forced disappearance cases from 1984-2005 that were reported by the 2008-10 Truth Commission. On October 16, President Moreno signed compensation agreements for 24 of the remaining 119 victims of human rights abuses with pending cases documented by the Truth Commission.

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

While the constitution and law prohibit torture and similar forms of intimidation and punishment, there were a few reports that police officers and prison guards reportedly tortured and abused suspects and prisoners. The Ombudsman’s Office conducted random inspections of sites where freedom of movement was restricted, including prisons, mental health facilities, and treatment clinics, among others, and investigated alleged cases of torture and other cruel, inhuman, or degrading treatment and punishment.

On September 4, local media and human rights organizations reported new allegations of torture involving prisoners in the Turi prison center. Prisoners claimed they were tortured and subjected to other forms of degrading treatment including arbitrary beatings, exposure to extreme temperatures, and electroshock. According to daily newspaper *La Hora*, in August a doctor stated that an examination of a prisoner confirmed the prisoner’s claims of torture and other forms of degrading treatment. On August 15, Judge Alfredo Serrano acquitted 15 law enforcement officers and dismissed charges against another 32 officers who were under criminal investigation for cruel and degrading treatment of prisoners after conducting a raid in Turi prison center in Cuenca in May 2016. Both the

Ombudsman's Office and the public defender, David Ayala, criticized the judge's decision. Local human rights organizations, including the Ecumenical Human Rights Commission (CEDHU) and the Regional Human Rights Advisory Foundation, called the prosecutor's decision unjustified due to the extent of the injuries suffered by the prisoners.

Prison and Detention Center Conditions

Prison conditions were harsh due to food shortages, overcrowding, harassment by security guards against prisoners and visitors, physical and sexual abuse, and inadequate sanitary conditions and medical care.

Physical Conditions: The April 2016 earthquake, which damaged the penitentiary facility in the town of Portoviejo, exacerbated overcrowding in some prisons, causing relocation of prisoners to other facilities that were already over capacity. On June 29, the UN Latin American Institute for Crime Prevention and the Treatment of Offenders reported that the prison population was 73.5 percent above the designed capacity. In a July 10 article in the newspaper *El Comercio*, Minister of Justice, Human Rights, and Worship Rosana Alvarado reported that the country had 10,000 inmates beyond capacity in 37 prisons.

Prisoners and human rights activists complained of a lack of resources for inmates. Relatives of the inmates reported that public officials expected prisoners to buy provisions from the prison centers on a monthly basis and that prison officials did not allow families of inmates to provide basic supplies purchased outside of the prison, including clothing and toiletries.

In some facilities, health measures were sufficient only for emergency care. Prisoners reported that medicines often were not available and they had no access to dental care. Prisoners also complained of harsh living conditions, including sanitary problems, a lack of food, poor nutritional quality of the food, and lack of heating and hot water.

Protecting the health and safety of prisoners remained a problem. Human rights organizations remained concerned about the mixing of prisoners from various criminal gangs in prison units. On January 4 and October 4, local media reported fights between rival groups of prisoners resulted in serious injury to 10 inmates in each instance. CEDHU reported that as of August 25, it had received information concerning the killing of eight prisoners in their cells in the cities of Guayaquil, Santo Domingo, Tulcan, and Latacunga. On October 11, police raided a prison in

Guayas as part of a law enforcement investigation called “Fortaleza 145.” During the raid, police arrested 22 prisoners for involvement in ordered killings and drug dealing.

On March 8, police detained 51 individuals in connection with the extortion of 67 inmates. The then minister of interior, Diego Fuentes, stated a criminal network extorted relatives of inmates by demanding payments between \$200 and \$800 (country’s official currency is U.S. dollar) in exchange for the inmates’ physical safety. According to local human rights organizations, prison authorities threatened family members of prisoners who died or suffered serious injuries to prevent them from making public complaints. On July 10, Minister Alvarado noted that searches and raids in prisons were necessary because “mafias” continued to operate in prison centers.

On September 20, a member of the National Assembly’s Justice Committee, Lourdes Cuesta, reported that she had received information of rape cases, the transmission of HIV, and beatings of prisoners in detention centers.

Administration: Public defenders assisted inmates in filing complaints and other motions. Some prisoners remained incarcerated after completing their sentences due to bureaucratic inefficiencies and corruption. It was extremely difficult to obtain a firm release date from prison authorities, and the onus was often on inmates to schedule their own review boards.

Independent Monitoring: Independent nongovernmental monitors complained that their access to prisoners was limited. According to the human rights nonprofit Permanent Committee for the Defense of Human Rights (CDH), prison authorities placed strict limits on who could visit prisoners and monitor prison conditions, which led to a “progressive isolation of prisoners.” Independent observers must submit in writing their reasons for visiting a prison, specifying general and specific objectives of the visit, as well as other information required by an administrative order. The CDH reported that many requests never received a response, which effectively prevented independent monitors from accessing prisons.

d. Arbitrary Arrest or Detention

The constitution and other laws 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, but there were reports that national, provincial, and local authorities in some cases did not observe these provisions.

Role of the Police and Security Apparatus

The National Police maintain internal security and law enforcement. The military is responsible for external security but also has some domestic security responsibilities, including combating organized crime. Both police and military are in charge of border enforcement. Migration officers are civilians and report to the Ministry of Interior. The National Police are under the authority of the Ministry of Interior, and the military is under the supervision of the Ministry of Defense. The National Police's internal affairs unit investigates killings by police and examines whether they were justified. The unit can refer cases to the courts. An intelligence branch within the military has a role similar to the police internal affairs unit. The law states that the State Prosecutor's Office must be involved in all investigations concerning human rights abuses, including unlawful killings and forced disappearance.

Insufficient training, poor supervision, and a lack of resources continued to impair the effectiveness of the National Police. Civilian authorities maintained effective control over police and the armed forces. The government has mechanisms to investigate and punish abuse and corruption, although not all cases were fully investigated.

Police receive required human rights instruction in basic training and in training academies for specialized units. In the police academy, human rights training is integrated throughout a cadet's four-year instruction. Additionally, there is a mandatory human rights training regimen concerning preservation of life and human rights, along with a human rights handbook. Authorities offered other human rights training intermittently.

Arrest Procedures and Treatment of Detainees

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

Detainees have a constitutional right to an attorney. Those without financial means to pay for an attorney have the right to request a court-appointed attorney from the independent Public Defenders' Office. Although the number of available court-appointed defenders was higher than in previous years, the high number of cases and limited time they had to prepare for the defense of the detainees continued to represent a disadvantage during trials.

Although the law entitles detainees prompt access to lawyers and family members, human rights organizations continued to report delays depending on the circumstances and officials' willingness to enforce the law.

Arbitrary Arrest: On April 27, public officials released indigenous leader Jimpikit Agustin Wachapa after four months of arbitrary detention. In December 2016 police officers and military officials entered Wachapa's house without a judicial order and transferred him to a maximum-security prison in the town of Latacunga. The Office of the Public Prosecutor later charged Wachapa with "instigation of discord," and then deputy interior minister Diego Fuentes reported that the leader was seeking to incite public discord through a message posted on Facebook.

Pretrial Detention: Corruption and general judicial inefficiency caused trial delays. The country also lacked resources to train police, prosecutors, public defenders, and judges. On September 20, Justice and Human Rights Minister Alvarado reported to the National Assembly's Justice Committee that 36 percent of inmates had not yet been sentenced.

Amnesty: On June 14, President Moreno pardoned environmentalist Patricio Marcelo Meza, who was arrested on June 6 and sentenced to six months in prison for assault and resistance during the 2015 indigenous demonstrations.

e. Denial of Fair Public Trial

While the constitution provides for an independent judiciary, outside pressure and corruption impaired the judicial process. Legal experts, bar associations, and human rights organizations reported on the susceptibility of the judiciary to bribes for favorable decisions and faster resolution of legal cases. Some judges reached decisions based on media influence or political and economic pressures in cases where the government expressed interest. Delays often occurred in cases brought against the government, whereas cases brought by the government moved quickly through the courts. There were credible reports that the outcome of many trials appeared predetermined. According to human rights lawyers, the government also

ordered judges to deny all “protective measures,” i.e., legal motions that argued the government had violated an individual’s constitutional rights to free movement, due process, and equal treatment before the law. Lawyers and human rights activists stated the government initiated disciplinary action based on “inexcusable error” against judges who allowed protective measures against the government. On August 21, 40 judges filed a complaint against their removal from office as ordered by the Judicial Council, the governmental oversight entity for the judicial branch. The Judicial Council declared the dismissals were based on charges leveled by private parties. The affected former judges claimed they were removed from office for unjust cause. On August 22, private defense attorney Hernan Ulloa representing the affected judges alleged that the Judicial Council committed “crimes of influence peddling, illicit enrichment, and organized crime, following interference in the independence of the judicial branch.” The former judges demanded the resignation of the Judicial Council’s president Gustavo Jalkh, through the National Committee of Judges against Corruption. On August 28, Jalkh told media outlets the initiative was an attempt to destabilize the judicial branch before the partial renewal of the National Court of Justice.

Trial Procedures

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

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

Criminal justice reforms aimed at reducing congested dockets in criminal cases produced “simplified” proceedings in pretrial stages, resulting in summary proceedings against defendants with few, if any, due process protections.

The regular court system tried most defendants, although some indigenous groups judged members independently under their own community rules for violations that occurred in indigenous territory. On September 12, members of the Confederation of Indigenous Nationalities of Ecuador (CONAIE) and officials from the Judicial Council discussed the application of indigenous justice and expressed willingness to work together in strengthening the administration of justice in all spheres.

On July 13, media outlets reported that 121 Cuban citizens deported from Ecuador in June and July 2016 suffered mistreatment, illegal detention, and rushed deportation proceedings, allegations the government denied.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Civil courts and the Administrative Conflicts Tribunal, generally considered independent and impartial, handle lawsuits seeking damages for, or immediate ending of, human rights violations. Civil lawsuits seeking damages for alleged wrongdoings by the government rarely were filed, since such suits were difficult to prosecute and time-consuming, with some judges taking up to a decade to rule on the merits of a case.

Property Restitution

Human rights groups denounced forced evictions by government authorities without due process or timely relocation to other housing. The evictions mostly affected Afro-Ecuadorian families in urban areas or indigenous families living near natural resource extraction projects. The government claimed that many of those evicted either were squatters or had purchased their land illegally. On October 12, local media reported that a joint operation by police and the Technical Secretariat for the Prevention of Irregular Human Settlements could result in the eviction of up to 200 families from their homes in southern Guayaquil within 48 hours if they could not produce proof of ownership. On July 7, indigenous organizations appeared before the Inter-American Commission on Human Rights (IACHR) to report human rights violations that led to forced displacement of their communities

in 2016. According to human rights organizations, in some cases the government failed to provide timely restitution or compensation to evicted families.

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

The constitution and the law prohibit such actions, but there were reports the government failed to respect these prohibitions.

Human rights, environmental, and labor activists and opposition politicians reported physical surveillance by authorities, including monitoring of their private movements and homes. According to some human rights activists, the physical surveillance was an act of intimidation intended to silence any potential criticism of the government. In the two weeks before the April presidential elections, representatives of a Catholic church reported detecting surveillance of their facility and religious services and receiving threatening telephone messages from unidentified callers warning the parish priest there would be consequences if he continued to politicize his sermons. In September, local media sources reported they obtained documents dating from 2010-14 detailing efforts by the National Intelligence Secretariat to spy on opposition parties, businesspersons, journalists, social movements, ecological groups, and indigenous organizations. The media sources claimed that public funds were used to record persons of interest and hack into personal email accounts in direct contravention of the penal code.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution provides for freedom of expression, including for the press, but the government restricted this right. The government continued to use the communications law to limit the independence of the press.

Freedom of Expression: Generally, individuals could discuss matters of general public interest publicly or privately without reprisal, although various civil society groups, journalists, and academics argued that the law limited their freedom of expression and restricted independent media. Under the 2013 communication law, media outlets are also legally responsible for the opinions of their contributors. Independent of this law, the 2014 criminal code prohibits citizens from threatening or insulting the president or executive branch, and penalties for violators range from six months to two years' imprisonment or a fine from \$16 to \$77.

Article 176 of the criminal code establishes a prison sentence of up to three years for those who “disseminate, practice, or incite any distinction, restriction, or preference on grounds of nationality, ethnicity, place of birth, age, sex, gender identity or sexual orientation, cultural identity, marital status, language, religion, ideology, socioeconomic status, immigration status, disability, or health status with the aim of nullifying or impairing the recognition, enjoyment, or exercise of equal rights.” According to some legal experts, the article could restrict freedom of speech.

Press and Media Freedom: Freedom House continued to rate the country’s press status as “not free.” Regulatory bodies created under the communication law monitored and disciplined the media through a combination of legal and administrative sanctions. The domestic freedom of expression watchdog group Fundamedios reported 210 “attacks on freedom of expression” through June 30, including sanctions of media outlets under the communications law, cases of restrictions on digital rights, and the “abusive use of State power,” including the withdrawal of official publicity, forced correction, cancellation of frequencies and programs, and arbitrary dismissals of employees. Fundamedios noted that the number of attacks were unusually high during the first semester of the year, especially during the presidential campaign season (between January and April), compared with 2016. Fundamedios also reported that during the first three months of Moreno’s presidency, attacks on the media decreased and the government-aligned public media outlets became more objective and balanced both in their news reporting and in editorial pages. President Moreno encouraged dialogue with the media and specifically called on journalists to report on corruption. Although the communication law remains in place, media outlets reported a reduction in government attacks on the media.

Independent media remained active and expressed a wide variety of views, including those critical of the government, although many analysts and journalists noted the 2013 law had led to self-censorship in private media, pointing to a decrease in investigative reporting under the Correa administration.

The law limits the ability of media to provide election coverage during the official campaign period. A constitutional court ruling in 2012 affirmed the right of the press to conduct interviews and file special reports on candidates and issues during the campaign period, but it left in place restrictions on “direct or indirect” promotion of candidates or specific political views.

The law includes the offense of inciting “financial panic” with a penalty of imprisonment for five to seven years for any person who divulges false information that causes alarm in the population and provokes massive withdrawals of deposits from a financial institution that places at risk the institution’s stability. Some analysts viewed this as a warning to the media in their reporting on the country’s financial problems. Media outlets reported privately that they refrained from some financial reporting due to concern over possible legal consequences.

The government administered an estimated 30 media outlets and used its extensive advertising budget to influence public debate. The law mandates the broadcast of messages and reports by the president and his cabinet free of charge. During the Correa administration, the government increasingly required media stations to broadcast statements by the president and other leaders, thereby reducing the stations’ private paid programming. President Moreno reduced the amount of time required for presidential broadcasts to one 15-minute broadcast weekly. President Moreno replaced the general editor of the state-owned newspaper, *El Telegrafo*, which traditionally strongly advocated for the government and its policies, with former journalist Fernando Larenas.

The law calls for the redistribution of broadcast frequencies to divide media ownership between private media (33 percent), public media (33 percent), and community media (34 percent). Observers claimed this redistribution of frequencies would reduce the private media by almost 50 percent. Government officials asserted in public statements that the redistribution of frequencies guaranteed a more inclusive and diverse media environment. In the previous year, the Agency for Regulation and Control of Telecommunications and the Council for Regulation and Development of Information and Communication (known by its Spanish acronym CORDICOM) initiated a process to adjudicate 1,472 radio and television frequencies. In January well established, private radio outlets Radio Democracia and Radio Vision, among others, were told that they were at risk of losing their frequencies to government-associated community media outlets due to the government adjudication process. Opposition groups protested the government-run tendering process of airwaves for its lack of transparency and for taking place during an election year. As of August 26, the redistribution of frequencies was suspended.

Violence and Harassment: On February 16, media outlets reported that authorities found explosive devices targeting two female journalists, Janeth Hinostroza of Teleamazonas television station and Estefani Espin of Ecuavisa, three days prior to the 2017 general elections. Former president Correa and other high-level

government officials criticized journalists and media outlets. In his last national televised address on May 21, Correa tore up a copy of the newspaper *La Hora*, labeled the media as his “greatest opponent” in his 10-year administration, and asked his followers to promote awareness in citizens to avoid being cheated by the “mercantilist press.”

Censorship or Content Restrictions: Journalists working at private media companies reported instances of indirect censorship. On May 25, the Superintendence of Information and Communication (Supercom) fined a radio station \$3,750 for insulting former president Correa. The director of the radio station, Luis Almeida, asserted that no infractions were committed, as analyst Jaime Verduga was exercising his freedom of thought and expression. Almeida also noted that Verduga repeated Correa’s own words, which were published by the government-owned digital media outlet *El Ciudadano*.

The law requires the media to “cover and broadcast facts of public interest” and defines the failure to do so as a form of prior censorship. Supercom decides prior censorship cases and can impose fines. Many private media complained that the government could decide what is of “public interest” and thus unduly influence their independent reporting. On April 27, three media outlets received a warning in writing from Supercom for transmitting results of exit polls that projected the opposition candidate as winner of the 2017 national elections on April 2. On April 21, Supercom fined seven outlets \$3,750 for “prior censorship” due to their decision not to publish a series of articles by Argentine newspaper *Pagina 12*, alleging that opposition presidential candidate Guillermo Lasso had dozens of offshore accounts. Representatives of the affected media outlets argued that the original story was poorly reported and that the publishing of unverified allegations would have violated the law. The ruling remained in effect as of September 15. On August 24, a district administrative court nullified a \$90,000 fine originally levied in 2014 against political cartoonist Bonil (Xavier Bonilla) of the daily newspaper *El Universo*. The court ruled that “opinions are not meant to inform” and that the constitution guarantees freedom of expression. The head of Supercom, Carlos Ochoa, announced that Supercom would contest the ruling.

The law also imposes local content quotas on the media, including a requirement that a minimum of 60 percent of content on television and 50 percent of radio content be produced domestically. Additionally, the law requires that advertising be produced domestically and prohibits any advertising deemed to be sexist, racist, or discriminatory in nature. Furthermore, the Ministry of Public Health must approve all advertising for food or health products.

Libel/Slander Laws: The government used libel laws against media companies, journalists, and private individuals. Libel is a criminal offense under the law, with penalties of up to three years in prison, plus fines. The law assigns responsibility to media owners, who are liable for opinion pieces or statements by reporters or others, including readers, using their media platforms. The law includes a prohibition of “media lynching,” described as the “coordinated and repetitive dissemination of information, directly or by third parties through the media, intended to discredit a person or company or reduce its public credibility.” The exact terms of this provision remained vaguely defined but threatened to limit the media’s ability to conduct investigative reporting. Supercom has the authority to determine if a media outlet is guilty of media lynching and to apply administrative sanctions. On June 5, former president Correa filed a complaint against journalist Martin Pallares for an article he published on April 21, alleging that Pallares uttered expressions in disrepute or dishonor against him, a crime punishable by 15 to 30 days’ imprisonment. On July 3, Judge Fabricio Carrasco found Pallares innocent of the charges of discrediting the president. On July 19, Judge Maximo Ortega de Ferrer accepted Correa’s appeal to review the July 3 ruling.

Actions to Expand Freedom of Expression, including for the Media: On inauguration day President Moreno announced that his government would end former president Correa’s practice of holding multihour, mandatory press events on Saturdays (often used by Correa to attack his opponents, particularly the media). Moreno subsequently highlighted the important role the press plays in the fight against corruption. Moreno invited civil society representatives and government agencies to address differences in opinion regarding the 2013 communication law through a national dialogue. Supercom officials participated in roundtable discussions on communication law reforms. Fundamedios noted in September that reported attacks against freedom of expression dropped more than 50 percent in the first three months of the Moreno administration, compared with the final three months of the Correa administration, adding, “The drastic drop in the number of attacks on freedom of expression reflects a new reality that could translate into an improvement in the exercise of this fundamental right in Ecuador.” Supercom issued fewer sanctions during the first three months of the Moreno administration.

Internet Freedom

The government did not restrict or disrupt access to the internet, but there were credible reports that the government censored online content and monitored private

online communications without appropriate legal authority. A government regulation requires that internet service providers comply with all information requests from the superintendent of telecommunications, allowing access to client addresses and information without a judicial order. Freedom House evaluated the internet as partly free. The International Telecommunication Union reported a 54 percent internet usage rate in 2016.

While individuals and groups could generally engage in the expression of views via the internet, the government increasingly monitored Twitter and other social media accounts for perceived threats or alleged insults against the president and government officials. Some nongovernmental organizations (NGOs) and media outlets reported cyberattacks by unknown perpetrators that appeared politically motivated since they occurred during coverage of the 2017 general elections and when content was perceived as critical of the government. On August 25, Fundamedios reported attacks on its digital portal for two consecutive weeks. On May 22, Usuarios Digitales, an internet watchdog organization, reported 160 internet attacks on social networks and digital platforms between April 2016 and March 2017. The website of the national private media group El Comercio was hacked on a regular basis. The organization had a team of digital experts tracking internet attacks on a daily basis.

The law holds a media outlet responsible for online comments from readers if the outlet has not established mechanisms for commenters to register their personal data (including national identification number) or created a system to delete offensive comments. The law also prohibits the media from using information obtained from social media unless they can verify the author of the information. On April 17, the Ministry of Interior's legal office filed a case against Luis Eduardo Vivanco, former editor in chief of *La Hora* newspaper, based on his tweets that "attempt to disparage the actions carried out by the government in its permanent fight against corruption." On May 18, Vivanco appeared before the Office of the Public Prosecutor to render his testimony.

Academic Freedom and Cultural Events

While there were no government restrictions on academic freedom or cultural events, academics reported that concerns over the process of awarding government contracts intimidated academics into practicing self-censorship. In December 2016 the National Assembly passed legislation eliminating public funding for research at universities that operate under international agreements. According to human rights organization Freedom House, "The legislation has the potential to undermine

the sustainability of two graduate universities, Universidad Andina Simon Bolivar and Universidad Latinoamericana de Posgrado Lider en Ciencias Sociales (commonly referred to as FLACSO Ecuador.)”

b. Freedoms of Peaceful Assembly and Association

The law provides for the freedoms of peaceful assembly and association, but the government limited freedom of association.

Freedom of Peaceful Assembly

The law provides for freedom of peaceful assembly, and the government generally respected this right. Public rallies require prior government permits that usually are granted. The government often deployed a large security presence at demonstrations, and security forces generally respected the rights of participants.

Freedom of Association

The law provides for freedom of association, but the government took steps to limit this right. On October 23, President Moreno issued decree 193 to replace executive decrees 16 and 739 that regulated freedom of association. Human rights organizations claimed former president Correa used decrees 16 and 739, which required all social organizations, including NGOs, to reregister in a new online registration system within one year of the decree or face dissolution, to stymie opposition and limit foreign influence.

Decree 193 simplified the application process to obtain and maintain legal status for NGOs and social groups by relaxing and eliminating some bureaucratic hurdles. The decree closed loopholes that Correa exploited to infiltrate and divide NGOs, including the elimination of a clause forcing groups to provide membership to any person, even against the will of the other members. The government also ended the requirement that a state entity collect information through the country’s diplomatic missions abroad on the “legality, solvency, and seriousness” of foreign NGOs before they are allowed to work in the country. Civil society representatives said that the new decree was a step in the right direction but lamented that it leaves in place some Correa-era policies, including the right of the government to dissolve organizations for ill defined reasons.

c. Freedom of Religion

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

d. Freedom of Movement

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. On January 28, then president Correa signed the Human Mobility Law, which codifies the legal protections guaranteed to migrants in the constitution, advances the protection of refugees and asylum seekers, and establishes provisions such as equal treatment before the law for migrants, nonrefoulement, and noncriminalization of irregular migration. The law entered into force on February 6. Large numbers of refugee seekers and the country's economic slowdown strained the government's immigration and social services, and it worked closely with local, international, and civil society organizations to cover assistance gaps when necessary.

Abuse of Migrants, Refugees, and Stateless Persons: Refugees, especially women and children, experienced sexual and gender-based violence. The Office of the UN High Commissioner for Refugees (UNHCR) and local NGOs reported that refugee women and children remained susceptible to violence, human trafficking, labor exploitation in sex trafficking, and forced labor. They also reported the forced recruitment of adolescents into criminal activity, such as drug trafficking and robbery, on the northern border, particularly by organized criminal gangs that also operated in Colombia.

The government cooperated with UNHCR and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

Internally Displaced Persons

Following an earthquake on April 16 that struck the Pacific coast, the government declared a state of emergency in the provinces of Esmeraldas, Guayas, Los Rios, Manabi, Santo Domingo, and Santa Elena. According to the final status report from the Secretariat of Risk Management on May 18, the earthquake claimed 663 lives and injured 6,274 persons. More than 40,000 persons were internally displaced following the earthquake, and approximately 29,000 were sheltered in public spaces, including sports stadiums. According to the International

Organization for Migration, as of October 21, at least 12,000 persons remained in official and informal shelters.

Protection of Refugees

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 law's implementing regulation establishes a two-step procedure for asylum seekers to apply for refugee status with a right to appeal rejections in the second stage of the process. The government limits applications for asylum to persons who enter the country within the previous 90 days. While an improvement over the previous 15-day time limit, experts noted that the admissibility procedure and a lack of qualified staff still hampered the granting of protection to deserving cases and remained the main challenges to refugee protection in the country.

The Human Mobility Law establishes a maximum of 120 days for the application process. During this process an applicant receives a humanitarian visa until the refugee status is adjudicated and all appeals are exhausted. Once the government grants refugee status to an individual, that person becomes a temporary resident. An individual with refugee status may apply for a visa renovation within two years or apply for permanent residence. An international NGO reported that the Ministry of Foreign Affairs was in the process of implementing the new legal provisions, including the issuance of humanitarian visas. An international organization stated that a significant number of Venezuelan migrants were arriving in the country. The government noted an increase in the entry and exit of Venezuelans across the border. On August 4, the Ministry of Foreign Affairs stated that Ecuador hosted 60,560 refugees, 98 percent of whom were Colombian and that an average of 418 persons entered the country each month seeking asylum.

Access to Basic Services: Forty percent of refugees and asylum seekers resided in isolated regions with limited basic services, primarily along the northern border, or in poor urban areas of major cities such as Quito and Guayaquil. According to UNHCR and NGOs providing social services to refugees, refugees continued to encounter discrimination in employment and housing. In September 2016 UNHCR and the Civil Registry signed an agreement that would enable recognized refugees to receive national identification cards that facilitate their access to education, employment, banking, and other public services. As of October, however, the Civil Registry had not started to issue national identification cards to recognized refugees. UNHCR reported that technical issues with the software and system to produce these cards led to delays.

Durable Solutions: The main durable solution was local integration, although there were many obstacles to achieve sustainable local integration. Discrimination; difficulty in obtaining adequate documentation; and limited access to formal employment, services, and housing with basic services affected refugees' ability to assimilate into the local population. Few refugees were able to naturalize as citizens or gain permanent resident status, due to the expensive and lengthy legal process required.

Temporary Protection: While there is no legal provision for temporary protection, the government and NGOs provided humanitarian aid and additional services, such as legal, health, education, and psychological assistance, to refugees recorded as having crossed the border during the year. Most government assistance ended after denial of official refugee status.

As an associate member of Mercosur (Southern Common Market), Ecuador issues temporary visas to citizens of Argentina, Bolivia, Brazil, Chile, Colombia, Paraguay, Peru, and Uruguay, and the government waived the visa application fee for Colombian and Paraguayan citizens. Foreigners in an irregular migratory status in the country were eligible to apply for the visa. While the Mercosur visa does not provide any safeguard against forced repatriation, UNHCR noted that many persons opted for the visa, since it was faster than the refugee process and carried less social stigma. Visa recipients are able to work and study for two years. The visa is renewable, but the requisites for such renewal were unclear to refugee advocates.

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. In 2015 the National Assembly approved a constitutional amendment to eliminate term limits for all elected positions, including the president, starting after the 2017 national elections.

Elections and Political Participation

Recent Elections: On February 19, the government held general elections for national offices, including the presidency and the National Assembly. On April 2, the government held a presidential runoff election between the top two tickets, Alianza PAIS (AP) and Creating Opportunities-United Society Movement More

Action (CREO-SUMA) alliance. The Organization of American States (OAS), Union of South American Nations, Association of World Election Bodies, Inter-American Union of Electoral Organisms, and domestic observers deemed both election rounds as open, free, and well organized, despite limited local irregularities. Although the international and domestic observation teams reported no fraud, some reports of premarked ballots and of counting and vote-tabulation irregularities resulted in challenges filed with the National Electoral Council (CNE) and the Electoral Contentious Court (TCE), the appeals body for electoral matters. Political organizations challenged the legitimacy of 11.2 percent of total votes, with CREO requesting a total vote recount. The request was denied because the law does not allow for a recount of 100 percent of the votes. The OAS reported that in the precampaign period, “representatives of opposition parties and civil society organizations objected to unequal access to the media.” Furthermore, during the campaign period, there was unequal coverage of parties and candidates in news reports, depending on the ownership of the media. According to media monitoring by the local NGO Participacion Ciudadana, private and public media outlets gave opposition and government party presidential candidates more equitable access to media than in the 2013 election.

Political Parties and Political Participation: Electoral laws require political parties to register with the CNE. To receive authorization to participate in elections, parties and movements need to show the support of at least 1.5 percent of the electoral rolls by collecting voters’ signatures. The law requires registered parties to obtain minimum levels of voter support to maintain registration. Voters are restricted to registering with only one political group.

The OAS reported an active presence of then president Correa in the precampaign and campaign periods, stating that “...political organizations complained of the lack of sanctions against the then-president of the republic for promoting the ticket of the official party during the government-funded *Enlaces Ciudadanos*,” a weekly program broadcast nationwide during the Correa administration. During the postelection period, citizens gathered outside the CNE to protest alleged fraud in the election results. On April 2, Ecuavisa TV channel reported the polling company Cedatos’ exit poll results, which identified the opposition presidential candidate as the winner. Participacion Ciudadana conducted a quick count and announced on national television a “statistical tie” between the two presidential candidates. Shortly thereafter their results were leaked on social media. On April 7, police raided the offices of Cedatos. The OAS considered that “the raid was excessive and deepened existing tensions following the elections.” On April 8, then president Correa accused Participacion Ciudadana, TV channel Ecuavisa, and

Cedatos of attempting to manipulate the outcome of the runoff election to favor opposition candidate Guillermo Lasso.

On March 29, the Attorney General's Office opened a preliminary investigation against Cedatos for falsifying data and using false documents, after the then vice president of the National Assembly, Rosana Alvarado, filed a complaint against Cedatos on March 22.

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 corruption by officials. The government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. The Correa administration took some steps to address official corruption. It continued a process to increase the efficiency of judicial services, which improved the judiciary's ability to remove corrupt or ineffective judges. Many civil society activists noted, however, that judges on the higher courts appeared more closely aligned with the former administration, and many questioned the independence of those courts, especially in politicized cases. Media reports alleged police corruption and corruption in public contracts and procurement, including in state-owned companies. Labor leaders and business owners reported corruption among labor inspectors.

Corruption: On February 16, the Attorney General's Office sentenced Carlos Pareja Yannuzzelli, former minister of hydrocarbons, in absentia, and Alex Bravo, former manager of the public oil company Petroecuador, to five years in prison for committing bribery. Pareja Yannuzzelli returned to the country in September and was under investigation for embezzlement, money laundering, organized crime, and illicit enrichment. The Attorney General's Office sentenced 14 other individuals to prison for committing bribery in relation to the Petroecuador corruption case. On August 17, *El Universo* reported that more than 140 persons were under investigation in the Petroecuador corruption case. As of September the Petroecuador cases continued.

In December 2016 unnamed officials were cited among those taking bribes from the Brazilian construction and engineering company Odebrecht. Odebrecht admitted to making more than \$33.5 million in corrupt payments to government officials in Ecuador between 2007 and 2016. On April 21, police arrested

Alecksey Mosquera, former minister of electricity, for allegedly accepting \$924,000 in bribes from Odebrecht for the construction of the Toachi-Pilaton hydroelectric dam in 2007. On April 21, police placed under house arrest Mosquera's uncle-in-law Marcelo Endara for allegedly accepting \$80,000 in bribes from Odebrecht. On June 2, police arrested six suspects, including Ricardo Rivera, Vice President Glas' uncle, for allegedly having committed illicit association. On July 3, the National Assembly censured Carlos Polit, former comptroller general, for breaching his official duties and having ties to the Odebrecht corruption scheme. On August 25, the National Assembly voted unanimously to authorize the judicial hearing of Vice President Glas for illicit association. On August 29, the National Court of Justice officially included Vice President Glas and 10 other suspects within the illicit association investigation in relation to the Odebrecht corruption case. On October 2, the National Court of Justice ordered the preventive imprisonment of Vice President Glas and on November 14 ruled that Vice President Glas will stand trial (with 12 other suspects). Vice President Glas will remain in prison until the conclusion of his trial and could face up to five years in prison if convicted.

Financial Disclosure: Government officials are required to declare their financial holdings upon taking office and if requested during an investigation. All agencies must disclose salary information annually. The constitution requires civil servants to present a sworn statement regarding their net worth at the beginning and end of their term of office, including their assets and liabilities, as well as an authorization to lift the confidentiality of their bank accounts. All declarations are filed in the offices of public notaries and are entered as a public document. The comptroller general's website contains a section where the public can conduct a search on officials to see if the officials complied with the income and asset disclosure requirement. There are no criminal or administrative sanctions for noncompliance, except for the inability to assume office. Public officials are not required to submit periodic reports, even when changes occur in their holdings.

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

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

Civil society organizations expressed concern about the government's discretion to dissolve NGOs per Decrees 16 and 739 (see section 2.b., Freedom of Association). Decree 16 created the National Secretariat of Policy Management, an authority responsible for regulating the fulfillment of the objectives and activities of social and civic organizations. Civil society representatives argued that the vague and overly broad grounds for dissolution led to self-censorship among NGOs. Additionally, NGOs contended that challenging an order of dissolution via the judicial process might take several years.

International NGOs are also subject to the NGO regulations in Decree 739. Government officials continued to claim many NGOs were tools of foreign governments that sought to destabilize the government. Government officials, including former president Correa during his weekly television and radio addresses, also criticized the credibility of specific international and local NGOs and their findings.

The United Nations or Other International Bodies: The UN Human Rights Council's Universal Periodic Review Working Group reviewed the country's human rights record on May 1. The government refused to appear at the hearings of the IACHR that focused on harassment the threat of extractive industries to indigenous peoples. The then foreign affairs minister, Guillaume Long, expressed dissatisfaction with the outcome of the reports issued by these bodies, claiming that the observations and criticisms were based on false information provided by NGOs.

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

A special unit within the Prosecutor's Office has responsibility for investigating crimes revealed in the 2010 Truth Commission report on alleged human rights abuses that occurred between 1984 and 2008.

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

Women

Rape and Domestic Violence: The law criminalizes rape of men or women, including spousal rape and domestic violence. Rape is punishable with penalties of up to 22 years in prison.

A 2011 government study found that 60 percent of women suffered from gender-based violence at some point during their lifetimes. Domestic violence is punishable with penalties ranging from four days to seven years in prison. The law provides penalties for physical violence, psychological violence, and sexual violence. According to the law, a prosecutor must investigate the victim's complaint of domestic abuse before issuing a restraining order. There were reports that, in some cases, victims waited 10 days or more for a response from the Prosecutor's Office. The law requires public hospitals to provide "first reception halls" to handle cases of sexual violence and domestic violence. The specialized halls--under the supervision of the Ministry of Health and staffed by physicians, psychologists, and social workers--offer immediate attention to the victim.

Based on 2016 statistics, there were 50 judicial units and 78 courts specializing in gender-based violence. The judicial units have responsibility for collecting complaints and assisting victims in ordering arrest warrants for up to 30 days of detention against the aggressor. The units forward serious abuse cases to prosecutors for criminal prosecution. Human rights activists stated that 16,000 cases of domestic violence were pending in the court system. They argued that the court system was insufficiently staffed to deal with the caseload.

Sexual Harassment: The penal code criminalizes sexual harassment and provides for penalties of one to five years in prison. Despite the legal prohibition of sexual harassment, women's rights organizations described harassment in public spaces as common.

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/.

Discrimination: The constitution affords women the same legal status and rights as men. Nevertheless, discrimination against women was prevalent, particularly with respect to economic opportunities for older women and for those in the lower economic strata.

Children

Birth Registration: Citizenship is acquired through birth in the country, birth to an Ecuadorian mother or father abroad, or by naturalization. A 2013 study by the vice presidency revealed that 5.5 percent of the population was not registered at birth.

Education: According to the constitution, education is obligatory through ninth grade and free through 12th grade. Nonetheless, costs for school-related items, such as uniforms and books, as well as a lack of space in public schools, continued to prevent many adolescents from attending school.

Child Abuse: On October 12, the Ministry of Education reported it received 882 complaints of sexual assault in schools between 2014 and 2017, with approximately 64 percent of the cases perpetrated by persons associated with the education system. On June 1, citing UNICEF, *El Comercio* reported that one of 10 women was sexually abused during childhood.

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

Sexual Exploitation of Children: The law prohibits sexual exploitation of children, including child pornography, with penalties of 22 to 26 years' imprisonment. The age of consent is 14. The penalty for commercial sexual exploitation of children under the age of 18 is 13 to 16 years in prison. Commercial sexual exploitation of minors remained a problem, despite government enforcement efforts.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at travel.state.gov/content/childabduction/en/legal/compliance.html.

Anti-Semitism

There is a small Jewish community, including an estimated 250 families in Quito and 120 families in Guayaquil, according to local synagogues. Isolated instances of anti-Semitism occurred.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The National Council on Disability Equality oversees government policies regarding persons with disabilities. Although the law mandates access to buildings and promotes equal access to health, education, social security, employment, transport, and communications for persons with disabilities, the government did not fully enforce it. The law requires that 4 percent of employees in all public and private enterprises with more than 25 employees be persons with disabilities.

The law stipulates rights to health facilities and insurance coverage. The law provides for special job security for those with disabilities or those who care for a person with disabilities, and it entitles employees who acquire a disability to rehabilitation and relocation. The law also gives the Ombudsman's Office responsibility for following up on alleged violations of the rights of persons with disabilities and stipulates a series of fines and punishments for lack of compliance with the law.

The government continued a campaign to create jobs for persons with disabilities, provide funding to municipalities to improve access to public buildings, and open training and rehabilitation centers.

The law directs the electoral authorities to provide access to voting and to facilitate voting for persons with disabilities, and international observers commended the government's accommodations for persons with disabilities in the 2014 local elections. The CNE initiated a program to allow in-home voting for those with more significant disabilities.

National/Racial/Ethnic Minorities

The constitution declares the state to be plurinational and affirms the principle of nondiscrimination by recognizing the rights of indigenous, Afro-Ecuadorian, and Montubio (an independent ethnic group of persons with a mixture of Afro-

Ecuadorian, indigenous, and Spanish ancestry) communities. It also mandates affirmative action policies to provide for the representation of minorities

Afro-Ecuadorian organizations noted that, despite the absence of official discrimination, societal discrimination and stereotyping in media continued to result in barriers to employment, education, and housing. Afro-Ecuadorians continued to assert that they are more frequently stopped by police for document checks than are other citizens.

Indigenous People

The constitution strengthens the rights of indigenous persons and recognizes Kichwa and Shuar as “official languages of intercultural relations.” The law provides indigenous persons the same civil and political rights as other citizens. The constitution grants indigenous persons and communities the right to prior consultation before the execution of projects that affect their rights. It also provides for their right to participate in decisions about the exploitation of nonrenewable resources located on their lands and that could affect their culture or environment. The constitution also allows indigenous persons to participate in the economic benefits that natural resource extraction projects may bring and to receive compensation for any damages that result.

In the case of environmental damage, the law mandates immediate corrective government action and full restitution from the responsible company, although some indigenous organizations asserted a lack of consultation and remedial action. The law recognizes the rights of indigenous communities to hold property communally.

On September 5, the Ombudsman’s Office reported that it monitored economic activity that may harm local communities, particularly Afro-Ecuadorians and indigenous peoples.

In November 2016 Shuar members attacked a Chinese-owned mining camp in Morona Santiago. In December 2016 members of the indigenous Shuar community Nankints attacked police officers and military who were patrolling the mining camp La Esperanza in Morona Santiago Province, killing one police officer and injuring five other police officers and two servicemen. Then-coordinating minister of security Cesar Navas announced a 30-day state of emergency in the Amazon province of Morona Santiago, declaring that a police officer died during an attack by “illegal armed groups.” The Ministry of Interior extended the

December 14, 2016, state of emergency until February 15. The Shuar attack followed months of militarization of canton San Juan Bosco and police and military forcibly evicting the indigenous community from their ancestral territory to facilitate the establishment of Chinese company Explorcobres S.A. mining project.

On January 27, approximately 100 police officers raided the indigenous radio station La Voz de Arutam in Morona Santiago after it broadcast on January 26 a message by the president of the Interprovincial Federation of Shuar Centers. According to a statement from the federation, police officers seized communications equipment and shut down the station.

On May 2, civil society and indigenous groups led by CONAIE launched the “Amnesty First” campaign and presented a proposal to then president-elect Moreno to pardon 111 indigenous protesters. On May 25, newly inaugurated President Moreno suggested the potential for amnesty for indigenous protesters charged with criminal offenses during the Correa administration. CONAIE claimed that the convictions against the indigenous protesters violated their rights to freedom of expression. On May 30, a group of indigenous persons led by CONAIE marched to the National Assembly, where they asked National Assembly President Jose Serrano to pardon 177 imprisoned indigenous protesters. Serrano stated that a committee of legislators would review each case on an individual basis. As of July 5, President Moreno had pardoned five imprisoned indigenous protesters, including indigenous leader Tomas Jimpikit.

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

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

In August 2016 a law allowing individuals to select gender on their identity cards entered into force. In August a local LGBTI organization reported that 270 individuals had successfully changed their gender on their identity cards but explained that the law further perpetuated discrimination and social stigma against

transgender individuals, since the identity cards revealed their decision to substitute sex with gender on their identity cards.

The government, led by the Ombudsman's Office, was generally responsive to concerns raised by the LGBTI community. Nevertheless, LGBTI groups claimed police and prosecutors did not thoroughly investigate deaths of LGBTI individuals, including when there was suspicion that the killing was because of sexual orientation or gender identity.

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

LGBTI organizations and the government continued to report that private treatment centers confined LGBTI persons against their will to "cure" or "dehomosexualize" them, although such treatment is illegal. The clinics reportedly used cruel treatments, including rape, in an attempt to change LGBTI persons' sexual orientation. According to a local LGBTI organization, law enforcement officials closed at least two such clinics in Guayaquil during the year.

HIV and AIDS Social Stigma

The constitution specifically prohibits discrimination directed at persons with HIV/AIDS. There was limited societal violence against such persons.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

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

finances to such workers. According to the Ministry of Labor, 2,969 labor unions represented 879,000 workers. The Center for Labor Policy Studies estimated that labor organizations represented 4 percent of all public and private workers.

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

All private employers with a union are required to negotiate collectively when the union so requests. The law requires a minimum of 30 workers for the creation of an association, work committee, or labor union, and it does not allow foreign citizens to serve as trade union officers. The law prohibits employers from using domestic outsourcing, including subcontracting, third party, and hourly contracts, to avoid providing employees the right to form a union and to receive employee benefits.

The law provides for the right of private-sector employees to strike on their own behalf and conduct three-day solidarity strikes or boycotts on the behalf of other industries. The law also establishes, however, that all collective labor disputes be referred to courts of conciliation and arbitration. In 2014 the International Labor Organization (ILO) called on the government to amend this provision by limiting such compulsory arbitration to cases where both parties agree to arbitration and the strike involves the public servants who exercise authority in the name of the state or who perform essential services. As of August 17, the government had not taken any action.

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

substitute personnel” only when striking workers refuse to send the number of workers required to provide the minimum necessary services.

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

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

During the year labor organization reported several cases of labor abuse and illegal dismissal of workers. There were no reports of workers being fired for union activities. On August 25, bus owners and drivers voted to suspend all municipal transit service in Quito, following negotiations with the municipal council to raise fares. Quito Mayor Mauricio Rodas announced legal action against the Pichincha Chamber of Transport, the union representing bus owners, based on a law prohibiting strikes of providers of public transportation services. The daylong strike resulted in 10 persons detained and four injured. On August 26, leaders from Quito’s municipal transportation service announced an end to the strike following meetings with municipal officials to seek agreement on a resolution. On September 6, Mayor Rodas said that municipal transportation employees had 30 days to demonstrate improved service in order to secure a five-cent fare increase. During this period the Metropolitan Transit Agency conducted random inspections and recorded 495 sanctions and 14 major infractions committed by transportation employees. They also received close to 800 complaints for poor service. Mayor Rodas said that all of the data collected during the 30-day period would be taken into account when evaluating a possible fare increase.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. The law does not require the means of force, fraud, or coercion for cases of forced labor and includes all forms of labor exploitation, child labor, illegal adoption, servile marriage, and the sale of tissues, fluids, and genetic materials of living persons. Penalties under this article range from 13 to 16 years' imprisonment. The law penalizes forced labor and other forms of exploitative labor, including all labor of children younger than age 15. Penalties for forced or exploitative labor are 10 to 13 years' imprisonment.

Limited resources, limited presence in parts of the country, and inadequate victim services hampered the effectiveness of police and prosecutors. As of October human rights organizations and media outlets continued to report that children were being subjected to forced criminality, particularly drug trafficking. The government identified and assisted 75 potential child trafficking victims, at least 11 of whom were victims of forced labor. A report issued during the year stated that the antitrafficking and human smuggling police unit arrested 56 suspected traffickers and conducted 52 antitrafficking operations in 2016.

Reports of forced labor of children (see section 7.c.) and women persisted. Observers most frequently reported women as victims of sex trafficking or of working in private homes under conditions that may amount to human trafficking. On April 12, *El Telegrafo* newspaper reported a 25-year prison sentence against a man who forced a 12 year-old female into prostitution. Forensic tests revealed that the perpetrator drugged the minor. Indigenous Afro-Ecuadorians, as well as Colombian refugees and migrants (see section 7.d.), were particularly vulnerable to human trafficking. Traffickers often recruited children from impoverished families under false promises of employment; these children were then forced to beg or to work as domestic servants, in sweatshops, or as street and commercial vendors within the country or in other South American countries. Women and children were exploited in forced labor and sex trafficking abroad, including in other South American countries, the United States, and Europe. The country is a destination for Colombian, Peruvian, Paraguayan, and Cuban women and girls exploited in sex trafficking, domestic servitude, and forced begging.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

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

The law establishes penalties for violations of child labor laws, including fines and closure of the business. Fines for violations of child labor laws range from \$50 to \$300 for parents or guardians and \$200 to \$1,000 for employers hiring children younger than age 15. These penalties were not sufficient to deter violations. If an employer commits a second child labor violation, inspectors may close the business temporarily. The law authorizes labor inspectors to conduct inspections at workplaces including factories, workshops, and any other location when they consider it appropriate or when an employer or worker requests an inspection.

The Ministries of Labor and of Economic and Social Inclusion and the Minors’ Tribunal enforce child labor laws.

Statistics from the National Institute of Statistics and Census (INEC) and the National Survey of Employment, Unemployment, and Underemployment (ENEMDU) reported in March a total of 522,656 children and adolescents between the ages of five and 17 working in the country. This was a significant increase compared with NGO reporting in 2016. As reported in local press on May 1, statistics by the Ministry of Economic and Social Inclusion also indicated that the province with the highest rate of child labor was Cotopaxi, with 25.1 percent of children working, followed by Bolivar, Chimborazo, Canar, Loja, and Azuay. The two provinces with the lowest rate of child employment were Manabi (4.4 percent) and Santa Elena (4.9 percent). In a 2015 INEC study, more than 73 percent of child laborers up to age 14 worked in agriculture, while trade and manufacturing

represented 12.2 percent and 5.5 percent, respectively, of the overall child labor rate.

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

Child labor remained a problem in the informal sector. In rural areas children were most likely found working in family-owned farms or businesses, including banana and rose farms. Labor organizations reported that children were largely removed from the most heavy and dangerous work. Additionally, there were reports of rural children working in small-scale, family-run brick-making and gold-mining operations. In urban areas many children under age 15 worked informally to support themselves or to augment family income by street peddling, shining shoes, or begging.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

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

Employment discrimination against women was prevalent, particularly with respect to economic opportunities for older women and for those in the lower economic strata. On October 4, *El Telegrafo* reported that the Ministry of Labor received 347 complaints from employees about workplace harassment between 2015 and 2017. On August 24, the National Assembly approved a series of labor reforms for employees in the public and private sectors to prevent workplace harassment.

On May 7, *El Comercio* newspaper reported the average income of women was 27 percent lower than that of men. In December 2016 *Los Andes* online media outlet cited a study by the Ipsos Ibid Consultancy noting that only “one in 10 general managerial positions was occupied by a woman in Ecuador, while in positions such as vice presidencies the percentage was 20 percent.” On March 1, INEC published the results of an ENEMDU survey that reported nationally 5.5 percent of women in the economically active population were unemployed, while among men, unemployment was 3.6 percent. On June 20, *El Telegrafo* reported that Afro-Ecuadorians continued to demand more opportunities in the workforce and complained that employers often would profile them based on their job application photographs. Indigenous and LGBTI individuals also experienced employment discrimination.

e. Acceptable Conditions of Work

The minimum monthly wage was \$375. Additional benefits mandated by law correspond to 40 percent of this salary. The official poverty level was \$85.58 per month, and official extreme poverty level was \$48.23 per month. According to official statistics published in June, 23.7 percent of the population lived at or below the poverty level, and 8.6 percent lived at or below the extreme poverty level.

The law limits the standard work period to 40 hours a week, eight hours a day, with two consecutive days of rest per week. Miners are limited to six hours a day and may only work one additional hour a day with premium pay. Premium pay is 1.5 times the basic salary for work done from 6 a.m. to 12 p.m. Work done from 12 a.m. to 6 a.m. receives twice the basic salary, although workers whose standard shift is at night receive a premium of 25 percent instead. Premium pay also applies to work on weekends and holidays. Overtime is limited to no more than four hours a day and a total of 12 hours a week. Mandatory overtime is prohibited. Workers are entitled to a continuous 15-day annual vacation, including weekends, plus one extra day per year after five years of service. Different regulations regarding schedule and vacations apply to live-in domestic workers. The law mandates prison terms for employers who do not comply with the requirement of registering domestic workers with the Social Security Administration. The law provides for the health and safety of workers and outlines health and safety standards, which were current and appropriate for the country’s main industries. These regulations and standards were not applied in the informal sector, which employed more than 53 percent of the population.

The 2016 Organic Law for the Promotion of Youth Work, Exceptional Regulation to the Working Day, Severance, and Unemployment Insurance provides that Social Security contributors who lose their job may opt for withdrawing their individual severance funds. Alternatively, the law provides the option of using the government's unemployment insurance, which includes a monthly payment for five months' equivalent to between 50 and 70 percent of the contributor's monthly average salary over the 12 months prior to the contributor's dismissal.

Enforcement of labor laws is the responsibility of the Ministry of Labor and the Social Security Administration. The government's 134 inspectors enforced all labor laws, including those for child labor.

Authorities may conduct labor inspections by appointment or after a worker complaint. If a worker requests an inspection and a Ministry of Labor inspector confirms a workplace hazard, the inspector then may close the workplace. Labor inspections generally occurred because of complaints, not as a preventive measure, and inspectors could not make unannounced visits. In some cases violations were remedied, but other cases were subjected to legal challenges that delayed changes for months. Penalties were limited to monetary fines between \$950 and \$6,360; they were not sufficient to deter violations and were often not enforced.

The Ministry of Labor continued its labor rights enforcement reforms by increasing labor inspections and increasing the number of workers protected by contracts, minimum wage standards, and registration for social security benefits.

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

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