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Freedom House

## Freedom in the World 2019 - Peru

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### Overview:

Peru has established democratic political institutions and undergone multiple peaceful transfers of power, though recent, high-profile corruption scandals have eroded public trust in democratic institutions and hampered normal political operations. Indigenous groups suffer from discrimination and inadequate political representation.

### Key Developments:

#### Key Developments in 2018:

- President Pedro Pablo Kuczynski resigned in March, just before an expected impeachment vote over corruption allegations against him.
- A standoff between the executive branch and the opposition-controlled Congress continued under Kuczynski's successor, Martín Vizcarra. However, Vizcarra appeared to gain the upper hand by earning overwhelming support for a set of anticorruption reforms he put to a national referendum in December.
- Secretly recorded phone conversations revealed abuses of power at the highest levels of the Peruvian judiciary in July, prompting resignations and a wave of citizen demonstrations.
- Opposition leader Keiko Fujimori was arrested in October for allegedly accepting illegal political contributions from the Brazilian construction firm Odebrecht, becoming the latest high-profile figure implicated in a sweeping scandal with the firm at its center.

### Political Rights and Civil Liberties:

POLITICAL RIGHTS: 31 / 40

A. ELECTORAL PROCESS: 11 / 12

**A1. Was the current head of government or other chief national authority elected through free and fair elections? 4 / 4**

The president is chief of state and head of government. Presidents are directly elected to a five-year term and may serve nonconsecutive terms. The 2016 election was closely contested, with Kuczynski winning by a historically small margin of 0.2 percent over Keiko Fujimori. The elections took place peacefully, and stakeholders accepted the close result.

Kuczynski resigned in March 2018, as lawmakers prepared to hold an impeachment vote against him over corruption allegations. Vice president Martín Vizcarra was quickly sworn in to replace him, in accordance with legal procedures.

**A2. Were the current national legislative representatives elected through free and fair elections? 4 / 4**

Members of the 130-member unicameral Congress are elected for five-year terms. Congressional balloting employs an open-list, region-based system of proportional representation, with a 5 percent vote hurdle for a party to enter the legislature.

Legislative elections were held concurrently with presidential elections in 2016. Keiko Fujimori's Popular Force party captured 73 of the 130 seats, followed by the Broad Front with 20 seats and Kuczynski's Peruvians for Change with 18 seats. The elections were considered free and fair.

**A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 3 / 4**

The National Board of Elections (JNE) has taken steps to improve transparency surrounding the electoral process, but insufficiently regulated campaign finance remains a serious issue.

**B. POLITICAL PLURALISM AND PARTICIPATION: 13 / 16**

**B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 4 / 4**

Peruvian parties, while competitive, are both highly fragmented and extremely personalized. Though there are limits on individual donations, there are no constraints on spending by political parties, offering an outsized advantage to parties able to secure abundant funds.

**B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 4 / 4**

Opposition political parties have a realistic chance of winning power through elections. The opposition Popular Force party has used its legislative majority as a strong counterweight to the executive.

**B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 3 / 4**

While voters and candidates are generally able to exercise their political choices without undue influence, businesses regularly seek to bribe or otherwise influence political candidates' positions.

**B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 2 / 4**

The concerns of ethnic and cultural minorities, especially in remote mountain and Amazonian areas, remain inadequately addressed in politics. The 2011 Law of Prior Consultation, which guaranteed consultation with indigenous groups before mining and other development projects were undertaken, has fostered increased recognition of indigenous participation.

While the political participation of women has increased over recent years, women hold just 28 percent of seats in Congress and few leadership roles in local and regional governments.

**C. FUNCTIONING OF GOVERNMENT: 7 / 12**

**C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 3 / 4**

Elected leaders and representatives are the key agents in creating and implementing policy. However, businesses and special interest groups influence officials through bribes and other illicit payments. The last four presidents and opposition leader Keiko Fujimori have all been accused of accepting illegal funds.

Partisan polarization has disrupted normal government functions in recent years. The opposition Popular Force has used its legislative majority to censure or dismiss top-level ministers and to pursue impeachment votes against President Kuczynski in late 2017 and 2018. Kuczynski resigned in March 2018 in the wake of numerous corruption allegations. His replacement, Martín Vizcarra, continued to battle with the legislature, at one point threatening to initiate a procedure that could permit him to dissolve Congress and call new elections. Politics had stabilized somewhat by year's end, after Vizcarra's anticorruption initiatives were approved in a referendum.

**C2. Are safeguards against official corruption strong and effective? 2 / 4**

Government corruption remains a critical problem in Peru, though law enforcement authorities frequently investigate and prosecute corruption allegations. Recent years have seen scandals involving allegations of illicit deals between the Brazilian firm Odebrecht and a number of the country's most senior political figures.

President Kuczynski grappled with corruption allegations since taking office in 2016. In March 2018, he resigned after the emergence of videos that appeared to show officials in his administration attempting to exchange politically beneficial public contracts for lawmakers' support in the impending impeachment vote against him. Kuczynski was already facing allegations that his investment firm had improperly accepted payments from Odebrecht. Opposition leader Keiko Fujimori was arrested in October for allegedly taking unlawful campaign contributions from Odebrecht. And, in November, former president Alan García was prohibited from leaving the country for 18 months after reports surfaced suggesting that he had accepted kickbacks from Odebrecht in return for contracts to construct the Lima metro, and had been secretly paid \$100,000 by the firm for a speech he gave in 2012. Former president Ollanta Humala continued to await a money-laundering trial in connection with allegations that he too had accepted illegal campaign funds from Odebrecht. In April, Peru's Supreme Court ordered that he be released from pretrial detention.

After taking office, President Vizcarra proposed four anticorruption reforms, which were put to a referendum in December 2018. Three of the measures—including a ban on consecutive reelection for lawmakers, limits on campaign contributions, and an overhaul of the judicial appointment process—were approved by more than 85 percent of voters. The fourth measure, to reinstitute a 50-member Senate, was rejected by a little over 90 percent of voters. The result was a triumph for Vizcarra, who had campaigned heavily for the three successful reforms, but advocated against the fourth due to a modification made by the opposition-controlled Congress that would have curtailed executive power.

A recent survey released in October by Datum International, a Peruvian market research company, found that 94 percent of respondents viewed corruption as being widespread in Peru, and 82 percent believe it had increased in the last five years.

### **C3. Does the government operate with openness and transparency? 2 / 4**

Some government agencies have made progress on transparency, but much information related to defense and security policies remains classified under a 2012 law.

CIVIL LIBERTIES: 42 / 60

D. FREEDOM OF EXPRESSION AND BELIEF: 15 / 16

### **D1. Are there free and independent media? 3 / 4**

Peru's dynamic press is mostly privately owned, and ownership is highly concentrated. Defamation is criminalized, and journalists are regularly convicted under such charges, though their sentences are usually suspended. Verbal and physical attacks against journalists are reported each year. In October 2018, Congresswoman Esther Saavedra physically attacked journalist Edgar Alarcón, who had reported that Saavedra's résumé misrepresented her educational background.

**D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 4 / 4**

The Peruvian constitution guarantees freedom of religion and belief, and these rights are generally respected.

**D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 4 / 4**

Academic freedom is unrestricted.

**D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 4 / 4**

People are generally free to engage in private discussion without fear of retribution or surveillance.

**E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 8 / 12****E1. Is there freedom of assembly? 3 / 4**

The authorities generally recognize the constitutionally guaranteed right to peaceful assembly. In the past, local disputes and protests—notably those related to extractive industries, land rights, and resource allocation among marginalized populations—have resulted in instances of excessive use of force by security personnel. However, substantial efforts by the state ombudsman and the National Office of Dialogue and Sustainability (ONDS) have seemingly contributed to a reduction in protest-related violence.

**E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights- and governance-related work? 3 / 4**

Freedom of association is generally respected. However, efforts by environmental activists to discourage land development have been met with intimidation.

**E3. Is there freedom for trade unions and similar professional or labor organizations? 2 / 4**

Peruvian law recognizes the right of workers to organize and bargain collectively. Strikes are legal with advance notification to the Ministry of Labor, but few strikers abide by this regulation. Lengthy processes involved in registering a new union create a window in which labor leaders and activists can be easily dismissed from their jobs. Short-term contracts in many industries makes unionization difficult. Less than 10 percent of the formal workforce is unionized.

**F. RULE OF LAW: 8 / 16****F1. Is there an independent judiciary? 2 / 4**

The judiciary is perceived as one of the most corrupt institutions in the country. In July 2018, secretly recorded tapes revealed five judges trading reduced sentences or judicial appointments in exchange for bribes. All of the judges resigned or were suspended and the revelations prompted a wave of citizen demonstrations. In December, voters approved a reform that would replace the National Council of Judges, the body which selects and appoints judges, with a new National Board of Justice, whose members would be voted on by the public and restricted to one five-year term.

## **F2. Does due process prevail in civil and criminal matters? 2 / 4**

Constitutional guarantees of due process are unevenly upheld. Lawyers provided to indigent defendants are often poorly trained, and translation services are rarely provided for defendants who do not speak Spanish. Impunity for violence against environmental activists who challenge land development remains a problem.

In October, Peru's Supreme Court ordered former authoritarian president Alberto Fujimori back to prison. In 2009, Fujimori was sentenced to 25 years' imprisonment for human rights abuses committed while in office, but Kuczynski had issued a controversial medical pardon for him in 2017.

## **F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 2 / 4**

According to the 2016–17 Latin American Public Opinion Project (LAPOP) survey, Peru has one of the highest crime victimization rates in the Americas, with over 30 percent of Peruvians reporting that they were victims of a crime in the last twelve months, though many of these were nonviolent offenses.

Conditions in Peruvian jails are extremely poor. As of November 2018, the prison population was more than double the country's capacity; 40 percent of detainees were in pretrial detention.

## **F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 2 / 4**

Discrimination against indigenous populations and Afro-Peruvians is pervasive. LGBT (lesbian, gay, bisexual, and transgender) people face discrimination, hostility, and violence.

In September 2018, Peru passed a sweeping new disability rights law acknowledging the equal legal rights of every individual, regardless of physical, mental, sensory, or intellectual disability. The law also established a new system through which people with disabilities may obtain support in dealing with legal and other important matters.

## **G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 11 / 16**

### **G1. Do individuals enjoy freedom of movement, including the ability to change**

**their place of residence, employment, or education? 4 / 4**

Peru does not place formal restrictions on movement, and movement around the country has become easier in recent years due to a decrease in protest actions that involve road blockages. People are able to freely change their place of employment or education.

**G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 3 / 4**

The rights to own property and establish business are mostly respected, though tensions persist between extractive industries and indigenous communities who oppose land development. The Prior Consultation Law is designed in part to better protect indigenous rights to land. Its implementation has resulted in positive outcomes for communities that have taken part in consultation processes—though prior consultation still does not always take place.

**G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 2 / 4**

Gender-based violence is widespread in Peru, with more than half of Peruvian women reporting instances of physical, sexual, or emotional abuse. Proposals to recognize civil unions for same-sex partners have been repeatedly introduced and rejected in Congress. Abortion is permitted only in instances where a woman's health is in danger.

**G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 2 / 4**

Peruvian women and girls—especially from the indigenous community—fall victim to sex trafficking. Men, women, and children are subject to forced labor in mines and the informal economy. According to the US State Department's 2018 *Trafficking in Persons Report*, the Peruvian government has expanded its efforts to prosecute trafficking cases, but continues to fall short in assisting victims and preventing human trafficking.

Raúl Becerra, a former chief of the national police, was among 14 people arrested in November 2018 for allegedly operating a baby-trafficking ring that pressured low-income mothers into giving away their children, who were then likely sold for illegal adoption or organ trafficking. The group reportedly sought out pregnant women in part by purporting to offer abortions, which are illegal in most circumstances in Peru.

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