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Peru's Accession to the OECD Requires Substantial Guarantees for the Rule of Law and Human Rights



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Introduction

On 25 January 2022, the Organisation for Economic Co-operation and Development (OECD) invited Peru, along with five other countries, to begin talks on the country's accession to the organisation.¹ In June 2022, the OECD published a Roadmap setting out the terms, conditions and process for Peru's accession. The aim is to enable the Ministerial Council, at the end of the process defined in the Roadmap, to decide whether to invite Peru to accede to the OECD Convention and thereby become a full member of the Organisation.² The overarching aim of the accession process is to achieve convergence of candidate countries with OECD standards, best policies and best practices.³ On 7 June 2023, Peru submitted an Initial Memorandum setting out a self-assessment of the alignment of its national legislation and its policies and practices with the OECD legal instruments that apply to all its members.⁴ The Initial Memorandum is the starting point for the review of the country by the OECD Committees. Despite its importance, it is not publicly available.

This document provides additional information to the OECD Committees involved in the evaluation of Peru, as well as to its Member States. Its purpose is to convey the serious concerns of the signatory organisations about the current state of the country in terms of governance and the rule of law, the protection of human and labour rights, responsible business conduct, corruption and environmental protection. Based on this information, the organisations argue that Peru's legislation, policies and practices in these areas do not align with OECD standards, best policies and best practices and that, therefore, the country is currently far from complying with the criteria, terms and conditions of accession required by the organisation.

This document is of particular interest to the Public Governance Committee, Regulatory Policy Committee, Investment Committee and the Working Party on Responsible Business Conduct, Employment, Labour and Social Affairs Committee, Working Group on Bribery in International Business Transactions and Environment Policy Committee. It is also relevant to the review by the Chemicals and Biotechnology Committee, the Committee for Agriculture, the Fisheries Committee, the Regional Development Policy Committee and the Economic and Development Review Committee.

The OECD accession process represents a unique opportunity for the Peruvian state to strengthen its legislation, policies and practices in the areas addressed in this document and, therefore, to align with human rights treaties and other international instruments such as the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (OECD Guidelines). With this end in mind, we urge the OECD Committees and its Member States to consider the information provided in this document and to impose accession requirements on Peru that include the recommendations set out at the end of the document. We also call on the OECD Committees and Member States not to recommend Peru's accession to the OECD until the country has demonstrated significant compliance with these requirements and recommendations.

Accession conditions

To gain membership of the OECD, Peru must demonstrate “willingness, preparedness and ability” to adopt OECD practices, policies and standards.⁵ It must also confirm its adherence to the vision statement adopted on the 60th anniversary of the foundation of the OECD (60th Anniversary Vision Statement) in October 2021 and the accompanying Ministerial Council Statement.⁶

The 60th Anniversary Vision Statement sets out the organisation’s core values and priorities as the preservation of individual liberty, democracy, the rule of law and the defence of human rights. To safeguard the essential character of the OECD, the statement stipulates that prospective members must be like-minded, share its core values and adhere to the organisation’s standards.⁷ The Ministerial Council Statement that accompanies this document reiterates these values, adding gender equality and environmental sustainability as shared values of all its member states.⁸

The Roadmap requires Peru to demonstrate its adherence to the values, vision and priorities of the OECD not only through formal statements but also through its actions.⁹ In addition, it requires Peru to accept the obligations that come with membership, such as acceptance of all substantive legal instruments of the Organisation, and to undergo technical reviews by the OECD Committees.¹⁰ According to the Roadmap, the policy areas covered by these reviews will include structural reform for sustainable and inclusive growth, effective social inclusion and equal opportunity policies, public governance, integrity and anti-corruption efforts, effective protection of the environment and biodiversity and effective actions to achieve the objectives of the Paris Agreement on climate change (including efforts to reverse and halt biodiversity loss and deforestation).¹¹

Peru must demonstrate both its willingness and its ability to implement the substantive legal instruments within the competence of the committees’ responsible for conducting reviews. It must also demonstrate that its policies and practices in all areas relevant to the technical review are in line with OECD best policies and practices. The latter must be assessed by the committees with reference to the Accession Core Principles for OECD Committees set out in the Appendix to the Roadmap (cited in the conclusions on alignment in the relevant sections below).¹²

Gaps in law, policies and practices

Peru is mired in a deep political and institutional crisis. The immediate cause is rooted in the political events that began at the end of 2016, when Keiko Fujimori, candidate of the *Fuerza Popular* party, heir to the legacy of former dictator Alberto Fujimori, refused to recognise the victory of Pedro Pablo Kuczynski in the presidential elections. This triggered the political instability that continues to this day. It is also a result of structural discrimination, racism and social exclusion of large vulnerable sectors of the population that characterise Peruvian society and have not been surmounted in the 200 years of republican life that the country celebrated in 2021.

1. Democratic and institutional crisis

Since Kuczynski resigned as president in March 2018, there have been five presidents in the space of five years.¹³ The government of the last elected president, Pedro Castillo, was marked by serious political instability and culminated in a failed “self-coup” and the removal of the president by the Congress, controlled by the opposition majority. The latter had been implementing a strategy of destabilisation against the elected government since before the start of Castillo’s term. Following unconstitutional impeachment (*vacancia*) proceedings against Castillo (which failed to adhere to the procedure for political impeachment), Congress appointed Vice-President Dina Boluarte to take his place. She took over the presidency under the protection of an authoritarian, ultra-conservative coalition, opposed to the human rights agenda, formed by Parliament, the Executive, the Armed Forces, the Office of the Ombudsperson and the Constitutional Court.

1.1 Imbalance of powers

The Peruvian Congress has implemented an agenda aimed at eroding the balance of powers in order to gain greater freedom of action and eliminate democratic control of its decisions.

- **Indiscriminate Use of Motions for Presidential Removal:** Both President Kuczynski in 2018 and his successor Vizcarra in 2020 faced parliamentary impeachment motions (*vacancia*) on the grounds of “moral incapacity”. In 16 months of Pedro Castillo’s presidency, five successive cabinets faced a total of nine motions of censure against one of their members.¹⁴ Castillo faced three parliamentary impeachment motions (*vacancia*) on the grounds of “moral incapacity”¹⁵ and three constitutional complaints.¹⁶
- **Unconstitutional Removal of the Last Elected President:** On 7 December 2022, facing a third impeachment motion (*vacancia*), President Castillo announced the temporary dissolution of the Congress and the establishment of an emergency government. In response, Congress removed the president on the grounds of his attempted coup d’état, in proceedings which failed to respect constitutional and regulatory procedures.¹⁷
- **Capture of Power and Elimination of Political Control:** Congress carried out multiple actions aimed at capturing power and restricting political control over its decisions by the Executive or other institutions. For example, Law No. 31355 of October 2021 makes it impossible to invoke a motion of confidence (*cuestión de confianza*) on constitutional issues, whereby the president can dissolve Congress and call new elections under certain circumstances.¹⁸ Law No. 31399 of January 2021, makes the holding of referendums on constitutional matters subject to its prior approval, whereas previously such a move only required endorsement by a certain number of citizen signatures.

1.2 Capture of democratic institutions

The Peruvian Congress has engaged in political interference and obstructed the oversight functions of justice system bodies and other institutions that are key to ensuring the balance of powers.

- **Constitutional Court:** In May 2022, six new members lacking the necessary academic and legal credentials were elected by Congress without prior debate and without taking into account objections against at least four of them. Months later, the Constitutional Court in its new formation issued a ruling undermining the power of the Judiciary to exercise constitutional control over the actions of Congress, contrary to its own jurisprudence.¹⁹ In December 2023, it ruled in favour of the release of Alberto Fujimori, disregarding the orders of the Inter-American Court of Human Rights (Inter-American Court or I/A Court HR).²⁰

- **National Electoral Panel (*Jurado Nacional de Elecciones* – JNE):** Congress has put forward at least 29 bills that seek to interfere with the composition and functioning of the JNE. The new Constitutional Court endorsed Congress's intention to modify the Constitution to allow Congress to initiate impeachment proceedings (*juicio político*) against members of the JNE and the head of the National Office of Elections (*Oficina Nacional de Procesos Electorales* – ONPE).²¹ The president of the JNE who validated the results of the April 2021 presidential election won by Castillo, has since faced attacks and harassment, and has been granted interim protection measures.²²
- **Office of the Ombudsperson (*Defensoría del Pueblo*):** On 9 May 2023, Congress elected the new Ombudsperson without prior debate, without demonstrating his competence in human rights matters and ignoring the fact that he had "six open criminal cases for crimes including embezzlement, fraud and misappropriation".²³ Several days before the election, the Inter-American Commission on Human Rights (IACHR) had urged the Peruvian Congress to ensure that the election process was participatory, transparent, pluralistic and based on the merits and professional qualities of the candidates.²⁴ The Office of the Ombudsperson is the institution in charge of conducting the selection process for the members of the National Justice Board (*Junta Nacional de Justicia* – JNJ), the body that appoints, assesses and dismisses judges and prosecutors. Controlling of the Office of the Ombudsperson is a first step towards controlling the JNJ and, through it, the entire justice system.
- **National Justice Board (*Junta Nacional de Justicia* – JNJ):** Congress has presented various bills to modify the election process for members of the JNJ. This issue has been the subject of at least four constitutional complaints (*denuncias constitucionales*) and summary motions, one of them aimed at removing all of the JNJ's members.²⁵ In addition, a constitutional reform initiative received a favourable opinion from Congress, proposing to disband the JNJ and replace it with a new entity (the National School of the Magistracy – *Escuela Nacional de la Magistratura*), over which Congress would exercise greater control.²⁶ At the end of October 2024, seven new members of the JNJ were sworn in following a selection procedure lacking transparency. In January 2025, the OECD Working Group on Bribery in International Business Transactions expressed concern about these developments.²⁷ In a particularly worrying move, on 25 February 2025, the JNJ initiated disciplinary proceedings, intended to be used only in cases of corruption or flagrante delicto (*flagrancia*), against the President of the Judiciary, Janet Tello Gilardi, and four Supreme Court judges in relation to a labour ruling, a matter which would not normally be the subject of such proceedings. Judge Tello has been critical of the legislation adopted by Congress affecting the justice system and of President Dina Boluarte's attacks on her institution.²⁸

Alignment with the OECD: Measures, norms and/or decisions adopted by the Congress of the Republic, the current Presidency, and key entities of the Judiciary (in particular the Constitutional Court), undermine the separation of powers, the autonomy, integrity and independence of democratic institutions and, therefore, the protection of human rights. For these reasons, they are manifestly contrary to the values of democracy, the rule of law and the defence of human rights contained in the OECD 60th Anniversary Vision Statement. They are also in total contradiction with the commitments made in the Roadmap in terms of public governance, separation of powers, maintenance of the rule of law, strengthening trust in public institutions and democracy, government accountability and access to justice.²⁹

2. Deterioration of the rule of law in the context of the political crisis and social protest

The refusal of both the presidency and Congress to call early elections after the fall of former President Castillo led to citizen mobilisations between December 2022 and February 2023 that were disproportionately repressed by the security forces, violating the human rights to life, physical integrity, freedom of association, expression and peaceful assembly, and the individual freedom of hundreds of people.³⁰ In May 2023, the IACHR published a damning report on the human rights situation in Peru in the context of the social protests, condemning the government's actions.³¹

- **Deaths, Injuries and Impunity:** The excessive use of force by the National Police and the Army during the demonstrations left 67 people dead (of whom 49 were civilians caught up in the clashes) and 1,956 people injured, as of June 2023.³² Most of the deaths were of people of indigenous origin.³³ To date, no criminal sanctions have been taken against any responsible officials.³⁴ In June 2024, FIDH and APRODEH, which represent the families of the victims of these events called on the International Criminal Court to open an investigation. They argued that there was reasonable basis to affirm that crimes against humanity of murder and attempted murder were committed as part of a systematic attack against a civilian population made up of demonstrators or those perceived as demonstrators and that those responsible were members of the Peruvian Army and the National Police, acting in the course of their duties to repress the demonstrations.³⁵
- **Misuse of the State of Emergency:** In response to the demonstrations, the government repeatedly declared or extended the state of emergency and/or "curfew", suspending the exercise of various human rights and constitutional guarantees. Due to their frequency, duration (for "indefinite" periods) and form (involving the Armed Forces), most of these states of emergency were considered by human rights organisations to be unjustified and improper and, therefore, contrary to international human rights standards.³⁶
- **Criminalisation of Protest:** The government has used this as a tactic for controlling, dissuading and repressing citizen mobilisation. Measures included arrests for "identity checks", mass detentions and criminal proceedings against protesters.³⁷ Criminal investigations were opened against many of them, particularly against the leaders of the organising groups, on charges of terrorism and organised crime. In addition, in May 2023, the Supreme Court of Justice declared that protest is not a fundamental right protected by the Constitution.³⁸

Harassment of Protesters and Critical Voices: The security forces have also harassed and intimidated protesters, groups organising the protests and other critical voices through the use of surveillance, threats and reprisals.³⁹ Threats, attacks and intimidation have been directed at many journalists.⁴⁰ To date, there has been no progress in the investigations into attacks and other acts of intimidation against human rights defenders.⁴¹ Since mid-2024, a reform to Law No. 27692 on the Establishment of the Peruvian Agency for International Cooperation (*Agencia Peruana de Cooperación Internacional* – APCI) has been pending before Congress. The reform is clearly aimed at controlling or neutralising the financing and actions of NGOs that "seek to influence public policies or electoral processes". If the reform is passed, NGOs will be prevented from making any recommendations for improvements to state policy. Furthermore, they will be unable to promote responsible voting by exposing candidates linked to illegal economies, corruption or other crimes, or by demanding that candidates announce their priorities at election time, as some do.

- **Stigmatisation through "Terruqueo":** Protesters and government opponents are stigmatised through the use of derogatory terms such as "terrुqueo" or "terrुco". This term tendentiously associates left-wing or civil society opponents with the Shining Path (Sendero Luminoso) or the Túpac Amaru Revolutionary Movement (*Movimiento Revolucionario Túpac Amaru* – MRTA), the two terrorist organisations that started the internal armed conflict in the 1980s.

This stigmatisation is reinforced by racist overtones if the person targeted is of *mestizo* or indigenous origin. Organisations such as APRODEH, the *Coordinadora Nacional de Derechos Humanos* (CNDDHH) and the *Instituto de Defensa Legal* (IDL) have been victims of these smear campaigns using the term “*terruqueo*”. In February 2023, seven special rapporteurs and two United Nations working groups expressed concern about the use of the term “*terruqueo*” to stigmatise those exercising their fundamental rights.⁴² Despite this, FIDH, through the Observatory for the Protection of Human Rights Defenders (OBS), recorded and alerted on further harassment against these organisations in 2023 and 2024.⁴³

Alignment with the OECD: The Government’s response to the political and social crisis is clearly contrary to the OECD’s fundamental values in terms of the defence of human rights, the preservation of individual freedom, the rule of law and democracy. It is also in total contradiction with the commitments made in the Roadmap in terms of maintaining the rule of law, strengthening trust in public institutions and democracy, government accountability, access to justice, citizen participation and the preservation of civic space.⁴⁴

3. Erosion and abuses of human rights

The protection of human rights in Peru comes up against historical patterns of discrimination and political and socio-economic marginalisation that affect a large part of the country's population, especially workers and indigenous peoples. This is particularly the case in the context of business activity in various productive and extractive sectors. This structural and historical situation is compounded by the current Congress's active campaign to dismantle the institutions that guarantee human rights.

1.3 Responsible business conduct (RBC)

Despite its international commitments, Peru has failed to implement effective policies and regulations to ensure respect for human rights in the context of business activity.

- **Gaps in the National Action Plan on Business and Human Rights (NAP):** While the approval of the NAP in June 2021 was an important step in terms of RBC, it failed to address several issues identified in the diagnosis and in the OECD document *OECD Responsible Business Conduct Policy Reviews: Peru*.⁴⁵ For example, the NAP does not contain any specific action on large-scale agriculture, large-scale mining, hydrocarbons and environmental impact assessments.⁴⁶ Furthermore, the right to free, prior and informed consultation was not expressly included in relation to the implementation of business operations that would jeopardise collective rights, territories and livelihoods.
- **Lack of Implementation of the NAP:** The NAP and the purported adoption of the OECD Guidelines have had no real impact on the human rights situation in the context of business activity due to lack of implementation. Of the 81 measures to be taken between 2021 and 2023, only 9 were fully implemented. During the fiscal periods 2021 to 2024, the government did not allocate a specific budget for the implementation of the NAP, failing to comply with one of the express recommendations contained in the document *OECD Responsible Business Conduct Policy Reviews: Peru*.⁴⁷
- **Non-compliance with OECD Recommendations on RBC:** This document outlines many of the instances in which Peru has failed to comply with the OECD recommendations contained in the document *OECD Responsible Business Conduct Policy Reviews: Peru*. The Peruvian state has not developed specific targets or indicators to implement these recommendations, nor has it designated a specific entity to carry them out. Although many of the recommendations have been incorporated into the NAP, their lack of practical implementation makes their incorporation an entirely nominal and hollow action.⁴⁸
- **Corporate State Capture:** Both public policy dialogue processes on RBC and government actions in this area are affected by undue interference from the private sector and a profound imbalance of power. This explains the lack of action or policy gaps (such as those in the NAP mentioned above), the incoherence in the RBC policy agenda, as well as the lack of consultation of key social sectors in the relevant legislative and executive decisions. Business associations and large corporations in Peru exert their influence outside formal spaces for dialogue.⁴⁹ This is documented in the 2016 study by the Austrian Foundation for Development Research (ÖFSE), which points to the lack of independence of the business sector as one of the causes of the inefficiency of the National Labour Inspection Superintendency (*Superintendencia Nacional de Fiscalización Laboral* – SUNAFIL).⁵⁰
- **National Contact Point (NCP):** The Peruvian NCP does not offer guarantees of independence and impartiality, as it is housed within the Private Investment Promotion Agency (*ProInversión*), under the Ministry of Economy and Finance (MEF), entities that have failed to incorporate a human rights or RBC approach to carrying out their functions. The NCP does not have

equitable multi-stakeholder composition, nor advisory bodies that integrate all stakeholders, and lacks sufficient human and financial resources, as recently assessed by OECD Watch.⁵¹ These shortcomings have so far prevented the NCP from undertaking any meaningful activity in mainstreaming RBC into government policies or business practices, despite specific actions in the NAP.⁵² In 2024, the NCP initiated a process to set up a Responsible Business Conduct Unit under the MEF, to replace ProInversión. As part of this unit, a multi-stakeholder consultative council was established comprising public, private, civil society, social and trade union organisations. Business at OECD (BIAC) and TUAC, representing business, workers and non-governmental organisations, issued a joint statement urging governments and the OECD to take concrete steps to ensure the effectiveness of NCPs.⁵³

- **Human Rights and Environmental Due Diligence:** To date, the state has failed to comply with the NAP commitments to implement a mechanism to monitor the incorporation of due diligence processes by private and state-owned companies, to promote training and assistance programmes for the business sector in this area, or to initiate a multi-stakeholder dialogue on the desirability of adopting a due diligence law. Moreover, the progress of the business sector in implementing due diligence processes is not known, as business associations or companies have not reported this information, nor has the state required them to do so.⁵⁴ The failure to take action in this regard is at odds with the policies and practices of many OECD members, particularly but not only in Europe, that have recently enacted or introduced mandatory due diligence legislation such as Canada and Korea.
- **Lack of Action to Reduce Social Conflict:** At least 5 indigenous leaders were murdered in 2024 and 34 during the last decade for their work in defence of territory and nature.⁵⁵ In the last five years, human rights defenders have suffered more than 2,000 attacks of various kinds due to their resistance or demands in the context of business activity.⁵⁶ Despite this high-risk situation, the government has failed to comply with almost all of the commitments made in the NAP in relation to reducing social conflict, including strengthening the right to prior consultation and protection of defenders of territory and human rights.⁵⁷
- **Violation of Rights in the Context of Business Activity:** In its October 2024 report on social conflicts (report No. 248), the Office of the Ombudsperson reported 209 registered social conflicts (163 active and 46 latent). Of the total number of active cases, 89 conflicts are in the dialogue phase (54.6%), 39 in de-escalation, 20 in the early phase, 15 in escalation and none in crisis.⁵⁸ The conflicts are generated by the risks and adverse impacts caused by industries in relation to ecosystems and the rights of indigenous peoples and affected local communities, as well as workers. The state's absence leaves the populations defenceless against private actors, many of whom act illegally.⁵⁹ See the emblematic case of *La Pampa*.⁶⁰ See also the *La Rinconada* case as an example of the harmful use of the labour practice "*cachorro*"⁶¹ and, in another case, "*pallaqueo*".⁶² See also the *Ocho Sur* case as an example of abuses in the context of monoculture agriculture,⁶³ and the devastating socio-environmental impact of the REPSOL oil spill of January 2022.⁶⁴

Alignment with the OECD: Peru's legislation, policies and practices in this area are not aligned with the OECD's values, vision and priorities, as expressed in the 60th Anniversary Vision Statement, in particular those related to the defence of human rights, promotion of sustainable economic growth and the elimination of inequality. They are manifestly contrary to the commitments made in the Roadmap on Responsible Business Conduct (RBC) and respect for human rights in the context of business activity, the implementation of the OECD Guidelines and the actions of the NCP.⁶⁵ Moreover, they fail to comply with the OECD's explicit recommendations in its report *OECD Responsible Business Conduct Policy Reviews: Peru*.⁶⁶

1.4 Labour rights

Peru lacks a general labour law or Labour Code to organise its domestic labour framework, which is instead fragmented across more than 30 different labour regimes. In many cases, the extensive existing labour legislation fails to comply with the international standards set by the United Nations, the International Labour Organisation (ILO) (including Conventions 87, 98 and 151) and the OECD Guidelines. Moreover, there is no effective system for monitoring and detecting labour rights violations.

- Laws restricting Freedom of Association and Collective Bargaining:** The Peruvian legal system creates job insecurity. The Labour Productivity and Competitiveness Law encourages the widespread use of short-term contracts, which is the main obstacle to increasing the country's extremely low unionisation rate (6% of the total economically active population, disaggregated as 15% in the public sector and 5% in the private sector). 75% of the economically active population in formal employment is on short-term contracts. The Law on Collective Labour Relations prioritises the formation of trade unions and collective bargaining at company level, making collective bargaining at the supra-company level exceedingly difficult. It also limits the state's role as the final arbiter in resolving complex and prolonged disputes. The Consolidated Amended Text of the Law on Collective Labour Relations and its Regulations impose disproportionate requirements on strike actions and make the Ministry of Labour and Employment Promotion (*Ministerio de Trabajo y Promoción del Empleo* – MTPE) responsible for assessing their legality. The MTPE is weak and susceptible to “revolving door” practices and corporate capture. As a result, more than 90% of strike notices are declared inadmissible or illegal.⁶⁷ For these and many other reasons, the International Trade Union Confederation (ITUC) classifies Peru as a country that systematically violates labour rights (Rating 4).⁶⁸
- Inadequate public policies to guarantee Freedom of Association and Collective Bargaining:** The National Policy for Decent Employment (*Política Nacional de Empleo Decente* – PNED) lacks any measures to ensure the exercise of freedom of association and collective bargaining (all its commitments are limited to awareness-raising and training activities).⁶⁹ The Sectoral Plan for the Promotion of Trade Union Freedom in the Private Sector (*Plan Sectorial de Promoción de la Libertad Sindical en el Sector Privado*) for 2024-28, which was developed without inviting the participation of trade unions, contains significant shortcomings. Its diagnosis overlooks the impact of current labour legislation on unionisation and the exercise of trade union freedoms. In addition, the plan does not cover state and self-employed workers, meaning that the Labour Administrative Authority (*Autoridad Administrativa de Trabajo*) does not have the authority to protect their trade union rights. It also fails to address the inadequacies of the judicial and administrative authorities in sanctioning anti-union practices and does not specify the budget allocations for its implementation.⁷⁰
- Violation of ILO Convention 87:** Peru is on the ILO Committee of Experts' list of countries failing to comply with Convention 87 on Freedom of Association. At its June 2023 meeting, the ILO Committee on the Application of Standards took note of setbacks and violations of labour rights enshrined in Convention 87 and decided to set up an observation mission (Direct Contacts Mission or DCM) to Peru to assess the situation. To date, the Peruvian government has failed to respond or to confirm the date of a visit.⁷¹
- Child Labour:** According to the 2022 National Household Survey (*Encuesta Nacional de Hogares* – ENAHO) of the National Institute of Statistics and Information (*Instituto Nacional de Estadística e Informática* – INEI), approximately 760,000 children and adolescents are involved in child labour nationwide. The survey indicates that this problem is slightly more prevalent among boys (12.7%) than girls (11.4%). However, many girls and adolescents perform intensive work in the household, which can negatively affect their health and reduce the time available for school activities. The problem is significantly more widespread in rural areas (32.5%) compared to urban areas (5.8%), showing that prevalence is 5.6 times higher in certain parts of the

country.⁷² The National Strategy for the Eradication of Child Labour (*Estrategia Nacional para la Erradicación del Trabajo Infantil* – ENPETI) 2012-21 set a zero target for labour of children and adolescents between 5 and 13 working. According to the IX ENPETI Report, one of the reasons for the failure is the lack of inter-sectoral coordination to develop comprehensive interventions. This is compounded by inadequate coordination with employers, workers and civil society.⁷³ Although the NAP contains commitments on child labour, none of the proposed actions have been implemented to date.

- **Informal Economy:** According to the NAP, informal employment accounted for over 75% of the total economically active population in the Peru in 2018. As a proportion of salaried employment, informality in the labour market reached 50% of the economically active population. Within this group, 87.3% of workers do not have access to social security. The National Competitiveness and Productivity Plan 2019-30 (*Plan Nacional de Competitividad y Productividad* – PNCP) aims to address the issue of the informal economy, but it proposes the same measures that have been applied over the last 20 years, with little success in reducing informality. Moreover, many of its measures exacerbate job insecurity in the formal sector.⁷⁴
- **National Labour Inspection Superintendency (*Superintendencia Nacional de Fiscalización Laboral* – SUNAFIL):** SUNAFIL lacks sufficient independence, political support and resources to carry out its functions. The number of inspectors, particularly in the regions, is severely inadequate. The PNED outlines a commitment to expand labour inspection capacity, but planned improvements have not been implemented. In its last annual report for 2021 (published in August 2023), SUNAFIL reported 214 fatal work accidents and 27,785 non-fatal accidents, many of which could have been prevented with timely inspections. A particularly serious example is the death of 27 mine workers in May 2023 due to a mine fire.⁷⁵

Alignment with the OECD: Peru's legislation, policies and practices are not aligned with the OECD's values, vision and priorities as expressed in the 60th Anniversary Vision Statement, particularly with regard to the defence of human rights and inclusive and sustainable growth. They are also manifestly contrary to the commitments made in the Roadmap on social dialogue and trade union rights, ensuring respect for all labour and collective rights, social protection, the reduction of informal employment, state inspection capacity, the promotion of an inclusive labour market and the implementation of the core ILO Conventions.⁷⁶ Additionally, they go against RBC commitments on workers' labour rights.⁷⁷

1.5 Erosion of rights⁷⁸

The Peruvian Congress is pursuing an agenda aimed at dismantling human rights protections and progress.

- **Impunity for Serious Human Rights Violations:** In August 2024, Congress enacted the "Law defining the application and scope of the crime against humanity and war crimes in Peruvian legislation" (known as the "Impunity Law"). The law, which ignores decisions of the Inter-American Court of Human Rights⁷⁹ and the statements of the IACHR and the United Nations,⁸⁰ establishes a statute of limitations for war crimes and crimes against humanity committed before July 2002, with the aim of ensuring impunity for serious human rights violations committed during the internal armed conflict of 1980-2000. In addition, Congress is currently considering a bill to grant amnesty to members of the armed forces, police and public officials convicted of crimes committed between 1980 and 2000.⁸¹
- **Legitimisation of Police Abuse:** In March 2020, Congress passed Law No. 31012 on "Police Protection", which facilitates the arbitrary use of force by the police. Meanwhile, Legislative Decree No. 1589 of December 2023 criminalises protest in the country.

- **Erosion of Reproductive and Labour Rights:** In June 2022, the Congressional Committee on Women approved a proposal to ban therapeutic abortion, while the Committee on Justice and Human Rights shelved a bill to decriminalise abortion in cases of rape. In April 2023, Congress approved Law No. 785, which recognises that life begins at conception. Additionally, Congress sought to reverse progress in the area of trade union labour rights, including by revoking Supreme Decree No. 001-2022-TRA of February 2022, which limited outsourcing, and Supreme Decree No. 014-2022-TRA, aimed at strengthening union membership, the legal conduct of strikes and collective bargaining. These measures had already been rendered ineffective due to multiple legal actions initiated by the business sector.
- **Withdrawal from the Inter-American Human Rights Protection System:** A few days after the 2023 IACHR Report on the human rights situation in Peru, Congress made a proposal to withdraw from the American Convention on Human Rights.⁸² Furthermore, it has promoted multiple legislative initiatives aimed at limiting the scope of the Inter-American Court's decisions and the ability of judicial authorities to exercise the diffuse control of conventionality.⁸³ On 17 October 2024, for example, a reform to the Constitutional Procedural Code was approved, limiting the binding force of the Inter-American Court's judgments in cases where Peru is not a party.⁸⁴
- **Disregard of Inter-American Court Decisions:** All three branches of government have disregarded the Inter-American Court's decisions as seen throughout this document. In December 2023, former President Alberto Fujimori was released, despite an order by the Inter-American Court that the Peruvian state refrain from carrying out the Constitutional Court's ruling for his immediate release. The Impunity Law was later enacted.⁸⁵
- **Judicial Dismantling of Rights:** In March 2022, the Constitutional Court ruled that the right to prior consultation – provided for in ILO Convention 169, which has been ratified by Peru – is not recognised in the Peruvian Constitution, and therefore cannot be the subject of an application for constitutional protection (*amparo*). In May 2023, the Supreme Court of Justice declared that protest is not a fundamental right protected by the Peruvian Constitution.⁸⁶ Both rulings ignore international human rights law and the jurisprudence of the Inter-American Court.
- **Non-compliance with Judgments:** In June 2024, the Inter-American Court recognised the existence of a structural pattern of non-compliance with judgments in Peru, including *amparo* rulings aimed at protecting fundamental rights. The Court emphasised the systematic nature of this failure, which undermines the rights to due process and judicial protection, as enshrined in the American Convention.⁸⁷

Alignment with the OECD: The erosion of human rights protections through legislative measures, regressive judicial interpretations, non-compliance with judgments and violations of norms and decisions of the Inter-American human rights protection system is contrary to the OECD's values, vision and priorities, as expressed in the 60th Anniversary Vision Statement, in particular those related to the preservation of the rule of law, the defence of human rights and gender equality. It is also contrary to the commitments made in the Roadmap on labour rights, transparency and citizen participation in standard-setting and the promotion of regulatory coherence through coordination with supranational bodies (such as the ILO, the IACHR and the Inter-American Court).⁸⁸

4. Corruption

Despite some progress in strengthening the public integrity system, corruption remains one of the most serious problems facing the country. Between 2012 and 2022, Peru dropped 20 places in the Corruption Perceptions Index, now ranking in the bottom third of 180 countries.⁸⁹

- **Endemic and Growing Corruption:** Corruption is very high in the country and few detected irregularities lead to successful prosecution.⁹⁰ In 2023, the Office of the Ombudsperson reported more than 40,000 cases of corruption pending across the country, of which only 11% were at the trial or prosecution stage. Between 2012 and 2022, the number of cases increased by 1,500%.⁹¹ Cases concerning corruption in public institutions increased by 9% in the first half of 2024 compared to the previous year.⁹² In *Economic Surveys: Peru 2023*, published in September 2023, the OECD emphasised the high corruption levels and pointed to their detrimental effect on the government's ability to effectively implement policies and enforce the law.⁹³
- **High-level Corruption Scandals:** The recent political crisis has been marred by bribery and influence-peddling scandals at the highest levels of government, involving all three branches. In the *Odebrecht* case, investigations implicated at least three former presidents and officials at other levels of government, covering almost the entire political spectrum.⁹⁴ All presidents in the last thirty years have faced criminal proceedings for alleged corruption. Cases of individuals in senior political positions with ties to companies or individuals with known corruption allegations are commonplace (see, for example, the cases of former officials Bruno Pacheco⁹⁵ and Zamir Villaverde).⁹⁶
- **Congress' Action to Undermine the Fight Against Corruption:** In June 2023, Congress amended criminal laws to limit prosecutors' ability to enter into "effective collaboration" agreements with defendants, an essential criminal procedural tool to dismantle criminal organisations. At the same time, it modified its internal rules of procedure exempting members of Congress from the duty to submit a sworn declaration of interests, contrary to the objectives of the National Policy on Integrity and the Fight against Corruption.⁹⁷
- **Interference with the Autonomy of Prosecutors and Judges:** Since 2023, prosecutors investigating corruption linked to the *Lava Jato* case have faced disciplinary proceedings and criminal investigations. These actions are part of broader interference in the JNJ and the prosecution of its members. In January 2025, the OECD Working Group on Bribery conducted a high-level mission to Lima to address these issues. At the conclusion of its visit, it expressed serious concern about actions that could jeopardise judicial and prosecutorial independence to investigate corruption cases.⁹⁸
- **Paralysis in the Implementation of Anti-Corruption Policies:** The National Integrity and Anti-Corruption Plan expired in 2021 and has yet to be replaced. The government has also failed to publish a report on compliance with the plan. The NAP 2021-25 on RBC includes actions to address corruption in the business sphere but there have been no progress reports on its implementation to date.⁹⁹ The implementation of the 2021-25 Public Policy for the Reform of the Justice System, which includes actions to reduce judicial corruption, has been set back by political volatility and instability in the Ministry of Justice and Human Rights.¹⁰⁰
- **Corruption in Public Procurement:** Peru's public procurement system lacks adequate safeguards against corruption. Public procurement accounts for half of the country's public expenditure (more than in any other OECD country). The system is decentralised and comprises more than 2,000 sub-national governments, where corruption is most prevalent and where the diversion of funds through corruption is equivalent to 22% of all public spending. For example, it is a common practice to avoid the application of the State Procurement Law by splitting contracts into smaller amounts so that they fall below the threshold of application of this law, creating a fertile environment for corruption.¹⁰¹

Alignment with the OECD: Peru's legislation, policies and practices are not aligned with the OECD's values, vision and priorities, as expressed in the 60th Anniversary Vision Statement, particularly in relation to the consolidation of democracy and the rule of law and the defence of human rights. They are particularly contrary to the commitments made in the Roadmap on public governance, integrity and the fight against corruption (including efforts to ensure the independence and integrity of the judiciary and the capacity to detect and sanction corruption), trust in public institutions, effectiveness of the public sector, promotion of a culture of integrity, protection against influence peddling, and the suitability and effectiveness of the civil service, among many others.¹⁰²

5. Environment

Progress achieved in environmental policy over the last decade has not resulted in effective environmental protection. Legislative setbacks are common, and the environmental governance system has significant deficiencies.¹⁰³

- **Setbacks in Environmental Protection:** Law No. 30230 of July 2014 has undermined the environmental protection system by reducing environmental sanctions, limiting the autonomy and powers of the Ministry of the Environment (MINAM) and shortening the timeframe for approving Environmental Impact Assessments (EIA), among other changes. The scope of land-use planning (e.g. the capacity to define land use) was narrowed and the capacity of the Agency for Environmental Assessment and Enforcement (*Organismo de Evaluación y Fiscalización Ambiental* – OEFA) to supervise and sanction was weakened. Environmental institutions are now more dependent on decisions in the economic and productive sectors. MINAM has authorised additional setbacks: relaxation of environmental quality standards, removal of land-use planning as a ministerial area of competence, abandonment of leadership in policies to combat illegal mining, etc.
- **Gaps in the Implementation of Environmental Public Policies:** The last National Environmental Action Plan 2011-21 expired in 2021 and has yet to be replaced.¹⁰⁴ The Implementation Plan addressing the OECD's Environmental Performance Review (EPR) recommendations (EPR Implementation Plan) has not been adequately carried out. This is largely due to the reduction in MINAM's powers by Law No. 30230 and other ongoing issues such as lack of coordination and persistent tensions with regional and local governments.
- **Failure to Restore Ecosystems:** At COP 20 in 2014, Peru made a commitment to restore 3.2 million hectares of its ecosystems by 2020, a goal later extended to 2030. So far, only 720,000 hectares are planned for restoration over the next five years. In 2021, Peru adopted the National Strategy for the Restoration of Ecosystems and Degraded Forest Lands (known as *ProRest*), which sets out benchmarks for 2021-30.¹⁰⁵ Investigations have shown that 46 public investment projects were developed as part of this strategy. Only 16 projects are at an advanced stage of execution, 15 are stalled due to pending approval of the technical file or lack of budget allocation, and another 15 projects have been permanently deactivated or are about to be deactivated, according to the *Invierte* platform of the Ministry of Economy and Finance (MEF). The findings of investigations¹⁰⁶ reveal that *ProRest* is not even present in nine departments, including San Martín, the second most degraded area of the country according to data from the Ministry of the Environment (MINAM).
- **Lack of Mainstreaming of Environmental Policy:** Environmental policy is still seen by most of the public administration as an obstacle to growth. Institutional arrangements for major public

decisions fail to meaningfully integrate environmental policy considerations. Despite this, the EPR Implementation Plan does not provide for institutional arrangements to address the lack of coordination and integration of environmental policies.

- **Inability to Mitigate Socio-environmental Conflicts:** Environmental authorities do not have the capacity to act at the local level. Shortcomings in environmental institutions (lack of presence on the ground, lack of multi-level coordination, corruption at regional/municipal level) hinder efforts to mitigate socio-environmental conflicts. Surprisingly, the EPR Implementation Plan does not include actions to manage or prevent social conflicts.
- **Deforestation and Climate Emergency:** While Peru has set ambitious emission reduction targets, the OECD has indicated that these will not be achieved if the current rate of deforestation is not reversed and halted.¹⁰⁷ According to the 2021 report published as part of the National Environmental Action Plan for 2011-21, in 2020 203,272 hectares were deforested, the highest figure in the last twenty years.¹⁰⁸ The OECD warned that a lack of financial and human resources and poor coordination between the various public bodies limit the state's ability to achieve its objectives in terms of forest policy and Nationally Determined Contributions (NDCs).¹⁰⁹ Studies were conducted in the sub-basin of the Negro river, in Ancash, assessing natural pollution of surface water by metals (Fe, Li, Al, Co, Mn, Ni and Zn) resulting from acid rock drainage as a possible consequence of deglaciation. Findings indicated high contamination (average HPI of 360.959), with pH, Fe, Mn and Al levels exceeding environmental quality standards. The pollution was linked to natural oxidation and sulphide leaching processes, mainly affecting the Rurec, Pumahuaganga, Otuto and Uquian streams. The water was found to be unfit for human consumption due to the high level of contamination and associated health risks.¹¹⁰
- **Rejection of the Escazú Agreement:** The proposed ratification of the Escazú Agreement was shelved by the Foreign Affairs Committee of the Congress. The NAP on RBC for 2021-25 does not include any actions directly related to the promotion of the Escazú Agreement.¹¹¹

Alignment with the OECD: Peru's legislation, policies and practices are not aligned with the OECD's values, vision and priorities as expressed in the 60th Anniversary Vision Statement, particularly in relation to environmental sustainability. They are also manifestly contrary to the commitments made in the Roadmap on environmental enforcement capacity, integration of environmental objectives into economic and sectoral policies and practices, improvement of environmental governance, air quality, respect for the rights of indigenous peoples and local communities, climate change and deforestation. The emblematic Repsol Spill case highlights the gulf between the government's policies and practices and Roadmap in relation to ocean conservation and maritime biodiversity, preservation of the coastal and fishing ecosystem, and the "polluter pays" principle, among others.¹¹² Many of the country's environmental and development policies and practices are also contrary to the 2009 OECD Green Growth Strategy and countless environmental legal instruments.

RECOMMENDATIONS

The following are the measures that Peru should adopt to address the gaps and deficiencies in legislation, policies and practices described in this briefing paper and align them with OECD standards, best policies and best practices.

Democratic and Institutional Crisis (particularly relevant for the Public Governance Committee and the Regulatory Policy Committee)

- Guarantee the separation of powers and the autonomy, independence and integrity of public institutions, such as electoral bodies, judicial bodies and the Constitutional Court.
- Refrain from using motions for removal from presidential and other public office for political purposes and adhere to constitutional and legal procedures in such matters.

Rule of Law in the Context of Crisis (particularly relevant for the Public Governance Committee and the Regulatory Policy Committee)

- Promote a strategy of genuine dialogue with all sectors and social actors in the country to establish a timetable for ending the crisis, based on full respect for human rights and democratic institutions.
- Investigate serious human rights violations and potential extrajudicial killings that occurred during the 2022-23 crackdown and prosecute them before independent tribunals.
- Respect constitutional and international human rights law principles on the declaration of states of emergency and the use of force.
- Guarantee the conditions necessary for the exercise of social protest and freedom of association, assembly and expression.
- End the stigmatisation, criminalisation, harassment and censorship of social protest and human rights, social and trade union organisations.
- Refrain from passing legislation that jeopardises or restricts civic space, and repeal existing legislation that has such aims or effects.
- Reform legislation and institutional practices that perpetuate the current structural pattern of non-compliance with court rulings when they relate to the enjoyment of fundamental labour and social security rights, in accordance with the standards established by the Inter-American Court of Human Rights.

Human Rights (particularly relevant for the Investment Committee and the Working Party on Responsible Business Conduct, the Employment, Labour and Social Affairs Committee, the Public Governance Committee and the Regulatory Policy Committee)

- Make progress without delay in implementing the actions outlined in the 2021-25 NAP on RBC in a transparent and participatory manner, with regular reporting on progress.
- Mandate an institution with sufficient political authority and independence to promote and follow up on the OECD's recommendations in its document *OECD Responsible Business Conduct Policy Reviews: Peru*.
- Eliminate corporate capture of forums for dialogue and state institutions by adopting the best international policies and practices in this area.
- Take urgent measures to mitigate social conflicts by effectively regulating business activity, strengthening territorial rights and the right to free, prior and informed consultation, protecting the environment and the ensuring full and effective protection of human rights defenders.

- Establish effective corporate oversight and accountability mechanisms that ensure administrative or criminal sanctions and full reparation in the event of human rights abuses or environmental damage.
- Initiate the process for assessing the advisability of adopting a law on corporate due diligence in compliance with Action 30 of the 2021-25 NAP on RBC, taking into account existing proposals put forward by the Peruvian Civil Society Platform on Business and Human Rights (PSCEDH).
- Ensure effective compliance with core ILO Conventions, including respect for freedom of association and trade union autonomy, as well as timely and effective protection of workers' rights.
- Promptly pass legislation to rationalise the use of short-term contracts, reduce outsourcing and strengthen collective bargaining by industry sector, which is currently almost non-existent, and include these changes in the process of approving a general labour law or Labour Code.
- Respond immediately to the proposal for a visit from the ILO Direct Contacts Mission (DCM), and publicly announce the confirmed dates.
- Ensure that SUNAFIL has the autonomy and human, financial, technical and other resources necessary to carry out its oversight function in an effective and timely manner.
- Create conditions to allow parents responsible for children to have access to quality employment, enabling them to take care of their children and enrol their children in school, and ensure their continued enrolment in the education system.
- Promote public policies that establish effective mechanisms for labour inspection, strengthening businesses and increasing productivity, as well as effective enforcement of corporate due diligence standards throughout the supply chain, as strategies to promote formality in the labour market, reduce informality and improve working conditions.
- Guarantee women's rights and a gender perspective in accordance with international human rights conventions, particularly ensuring that girls and women who are victims of rape have access to therapeutic abortion.
- Refrain from withdrawing from the American Convention on Human Rights and fully comply with the orders and judgments of the Inter-American Court of Human Rights.
- Initiate an inclusive and participatory debate within the judiciary to address structural problems of non-compliance with judgments and constitutional protection rulings (*amparos*).

Corruption (particularly relevant for the Public Governance Committee and the Working Group on Bribery in International Business Transactions)

- Develop a comprehensive strategy to effectively combat corruption by strengthening both preventive measures and complementary reforms in key areas such as justice, civil service, public procurement, infrastructure governance and regulatory transparency, as well as punitive measures to serve as effective deterrents.
- Initiate civil service reform to ensure a professional and ethical civil service.
- Reduce the proportion of interim judges and prosecutors, replacing them with career civil servants.
- Introduce public sector reforms to minimise corruption opportunities, strengthen internal control mechanisms and ensure transparency in government actions at all levels.
- Strengthen efforts to reinforce integrity systems in sub-national entities.
- Reduce the risk of corporate capture through political party and campaign financing and informal lobbying. To this end, strengthen the power and resources of the ONPE and the National Superintendency of Public Registries (*Superintendencia Nacional de los Registros Públicos* – SUNARP), responsible for registering interest groups (lobbyists), to ensure compliance with existing laws and regulations.

- Increase the expertise of law enforcement officials in the areas of public procurement and accounting, especially at the regional level, and ensure access to qualified experts in these areas.
- Improve the public procurement system, including the detection and sanctioning of the practice of contract splitting and the professionalisation of the public procurement function.

Environment (particularly relevant for the Environment Policy Committee, the Investment Committee and the Working Party on Responsible Business Conduct)

- Ensure that MINAM is the lead agency for environmental policy in the country. To this end, provide it with the necessary autonomy to determine environmental policy objectives and broader powers to align sectoral policies with environmental performance.
- Develop a new legal framework to redefine the objectives of land-use planning, giving MINAM the lead role in the country's land-use planning policy.
- Ensure the proper functioning of SENACE, OEFA and other environmental regulatory bodies by providing sufficient resources, developing a merit-based civil service policy and establishing mechanisms to guarantee their independence.
- Strengthen the mechanisms for integrating environmental policy and other public policies, as well as the tools for inter-institutional coordination. Enhance coordination between the different levels of government and increase regional and local management capacities in environmental and sustainable development matters.
- Ensure full compliance with environmental quality standards in their various dimensions (air, water, soil, noise, non-ionising radiation) and restore MINAM's autonomy in determining these standards.
- Create stronger environmental management capacities that allow for more effective state action on the ground (particularly in rural areas), including mechanisms for early state intervention at the local level and prevention of disasters (e.g. REPSOL) and conflicts.
- Ensure respect and protection of indigenous territories (including, among other measures, by ensuring effective land titling), protected natural areas and peoples in isolation and in initial contact.
- Increase public environmental spending to address the increasing demands of compliance with environmental standards and to combat illegal activities with high environmental impacts (such as mining and illegal logging).
- Develop a new National Climate Change Strategy with updated milestones, policies and priorities in line with the 2030 and 2050 emission reduction targets.
- Incorporate significant reduction in the rate of deforestation as a key environmental policy objective. To this end, increase resources for conservation, reforestation, afforestation and combating illegal mining and logging, and ensure immediate titling of indigenous lands.

Conclusion

Peru is listed as a “hybrid regime” in *The Economist* Intelligence Unit’s democracy index. This category reflects a political regime in which authoritarian and democratic features converge.¹¹³ In other words, Peru is in a grey zone between democracy and authoritarianism, far from the OECD’s ideal of democracy.

The gaps and deficiencies in Peru’s legislation, policies and practices described in this report demonstrate that the country does not currently meet the OECD’s values, vision and priorities and the Committees’ review benchmarks, as outlined in the Roadmap. Peru lacks the willingness and/or ability to implement the substantive legal instruments that fall within the remit of the Committees. Furthermore, the country’s policies and practices diverge from OECD policies and best practices as assessed against the List of Accession Core Principles for OECD Committees, set out in the Appendix to the Roadmap.

We therefore urge the OECD Committees to thoroughly assess the gaps and non-compliance issues addressed in this document, to include the proposed improvement measures set out in the previous section in their conclusions and recommendations to Peru, and NOT to recommend Peru’s accession until it has complied meaningfully, promptly and in a timely manner with all of them.

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DIRECTOR OF PUBLICATION:

Alice MOGWE

EDITOR:

Éléonore MOREL

AUTHORS OF THE REPORT:

Gabriela QUIJANO, con el apoyo de FIDH,
Peru Equidad, Aprobeh y OCDEWatch.

COORDINATION:

Natalia YAYA

COVER PHOTO:

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FIDH INTERNATIONAL FEDERATION FOR HUMAN RIGHTS

17, Passage de la Main d'Or | 75011 Paris | France

T. +33 1 48 75 21 45 E. info@fidh.org X [fidh_en](https://twitter.com/fidh_en)

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T. +33 1 48 75 21 45 E. info@fidh.org X [fidh_en](#)

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