

PERU

FREEDOM OF SPEECH UNDER THREAT

Executive Summary

2023's Chapultepec Index shows that freedom of expression and the press is in decline in Peru. From the 2021 edition to the present one, the country has shown a drop in the Index of nearly 20 points. It currently ranks 12th in the category of freedom of expression and press restriction. The inauguration of Dina Boluarte to the President's Office brought a record number of dead civilians in rallies unseen in the country for decades. Of the three environments, legislative, judicial and executive, the latter was the one that had the most unfavorable influence on the right to freedom of expression.

Introduction

On December 7, 2022, a few hours after deliberations on the third impeachment of then-president Pedro Castillo, he broadcast a speech on TV. There he announced the dissolution of Congress, the reorganization of the Attorney's Office, the Constitutional Court and the National Board of Justice, the establishment of a State of Emergency, as well as a nationwide curfew.

It was a failed coup d'état. Congress declared Castillo's "permanent moral incapacity" due to his attempt to "usurp public functions, prevent the functioning of the powers of the State and violate the order established by the Political Constitution" ([OACNUDH, 2023](#)).

That same December 7, Castillo was arrested as an alleged co-author of the offenses of rebellion and conspiracy. Congress declared the President's Office vacant and [swore in](#) the then Vice President, Dina Boluarte Zegarra, as the new President of the Republic.

The wave of protests would begin then and go on until February 2023 with special intensity. Among other dissatisfactions, the rallies mainly channeled social discontent over political corruption and the historical discrimination and political and socioeconomic marginalization gone through by the population in Southern Peru.

Unfortunately, the demonstrations had an unprecedented-in-Peru-for-decades death toll. Last April, Human Rights Watch made public an investigation in which the number of civilian deaths were 49, including 8 minors, between December 7, 2022 and February 2023. "The evidence shows that the Armed Forces and the National Police of Peru (Policía Nacional del Perú, PNP) made unreasonable and indiscriminate use of force," indicated the NGO specialized

in human rights ([HRW, 2023](#)).

Recently, in October, the Office of the United Nations' High Commissioner for Human Rights extended the review until March 30, 2023 and "recorded 50 civilian deaths and at least 821 people injured, allegedly by security forces" ([OHCHR, 2023](#)).

Of the four realms analyzed by this freedom of expression and press index, three have obtained a very negative valuation: Violence and Impunity, Citizens Free to Express Themselves and Exercise of Journalism. The first dimension is the worst evaluated and in turn contains the two subdimensions in the worst situation: Impunity, with only 1.11 points out of a possible 8.5, and Recorded Violent Acts, with 6.13 out of 21 possible points.

Results Analysis on the Environments: the impact of negative influence

The situation of freedom of expression and press in Peru continues to deteriorate. Currently, the executive environment exerts the greatest negative influence on this fundamental right, followed by the Legislative and then the Judiciary. The latter rank in the slight influence category, while the Executive gets a moderate influence.

The Judiciary increased its unfavorable influence on freedom of expression. It scored of 1.68, and increased 0.11 points in reference to the previous year's result. Specifically, an escalation took place in two of the four analyzed realms: Citizens Free to Express Themselves and Violence and Impunity.

Threats of lawsuits, the use of notarial letters, complaints, sentences and other judicial resources are a recurring practice that hinders the free exercise of journalism. In other words, intimidation of journalists through legal means is a recurring modality in Peru.

An example of this was the judicial notification that El Foco portal received on November 3 by which it was ordered to withdraw, until the ruling is issued, all the information published about the complaints of mistreatment and harassment against Miguel Ángel Méndez Maúrtua, attorney of the Ministry of Women and Vulnerable Populations (Ministerio de la Mujer y Poblaciones Vulnerables, MIMP) ([IPYS a, 2023](#)).

On the other hand, a historic ruling took place after 35 years. Last April, former minister and former presidential candidate Daniel Urresti was sentenced to 12 years in prison for masterminding journalist Hugo Bustíos's murder, then magazine Caretas' correspondent in Ayacucho.

In November 1988, Bustíos was killed when he was on his way to cover a crime committed against a family in Huanta, Ayacucho. According to the magistrates, Daniel Urresti arranged the operation to murder the journalist when he was head of the Intelligence and Counterintelligence Section of the counter subversive base at Castropampa in Huanta. After eight hours of reading the ruling, the court ordered Urresti's immediate arrest and his transfer to a prison in Lima ([IPYS b, 2023](#)).

As to the Legislative, although on average its negative influence has decreased by a few decimals, it has clearly come back on in the Citizens Free to Express Themselves realm, with an increase of 1.21 points. It went worse in the Violence and Impunity realm, showing an

increase of 0.11 points, going from a slight to a moderate negative influence.

In May 2023, Congress passed a ruling that increased penalties in cases of slander and defamation committed by the press. For the first, it established a fine of 120 to 365 days and civil compensation in favor of the plaintiff. In defamation matters, the penalty could be up to 4 years in prison, as well as civil reparation for the complainant ([El Comercio a, 2023](#)).

“The most serious and dangerous thing is that it is proposing the possibility of an effective prison sentence in matters of defamation through the media, social media or the internet in general”, constitutional lawyer Roberto Pereira had pointed out months before to the Press Institute months ago and Society ([IPYS c, 2023](#)).

Known as the “gag rule”, the project had been passed in under 15 minutes, without prior debate, counting 69 favorable votes, 28 against and three abstentions in the first round. Finally, after warnings from organizations advocating freedom of expression, Congress backed down and shelved the proposal ([El Comercio b, 2023](#)).

On its behalf the Executive scored 2.57 on the degree of unfavorable influence on freedom of expression and the press, which means a decrease of 1.02 points. Regardless, the Executive remains the leading negative influential, being the only environment that exceeds the level of mild influence and becomes moderate.

A questioned appointment and different cases of possible dismissals were recorded at the National Radio and Television Institute (Instituto de Radio y Televisión del Perú, IRTP). On May 31, Dina Boluarte appointed Ninoska Chandía as the new IRTP’s president. Until then, she had been in charge of the President’s Office Chair of Strategic Communication and Institutional Image, and had previously met with Boluarte when she headed the Ministry of Development and Social Inclusion and Chandía was chief press officer for one of the portfolio’s flagship programs, Pensión 65 ([La República, 2023](#)).

A few weeks later, journalist Ximena Carrasco from TV Perú, an IRTP-run public TV station, reported that she was fired without further explanation. “Today without reason or justification I was fired from TV Perú, press management had requested my renewal of service order for July, but it was bounced from the presidency. Today I was informed that I no longer belong to IRTP. I requested a rationale and they told me there were none”, the host complained on Twitter ([Infobae a, 2023](#)).

Carrasco was the journalist who two months earlier questioned the Head of State at a press conference about the Human Rights Watch report titled “[Lethal deterioration. Abuses by security forces and democratic crisis in Peru \(Deterioro legal: Abusos por las fuerzas de seguridad y crisis democrática en el Perú\)](#)”, a document that concludes that deaths in rallies against the government would be considered extrajudicial executions. That journalistic topic that was widely disseminated.

Ximena Carrasco’s case was followed by that of host Jorge Ballón, who weeks ago had criticized on his Twitter account the statements of Minister of Culture Leslie Urteaga about the reasons why the station’s newscasters had been barred from entering from the State to the Government Palace. “Changes are always good,” the minister had pointed out. Ballón Artaza described Urteaga’s statements as “unfortunate” ([Infobae b, 2023](#)).

“[Two days later] They called me and told me if I had anything to say about the management. That I could speak frankly [...]. But I stated that I had nothing to say, and that I had only expressed what I considered to be something that attracted attention. And that was it. I suppose that because of things like that they have evaluated [his exit]”, the journalist said.

Executive director of the Peruvian Press Council (Consejo de la Prensa Peruana, CPP) Rodrigo Salazar stated the following in this regard: “We know of the departure of—at least—seven journalists and two administrative officials, which is a warning about the management of the Peruvian government’s station. [...] What happened yesterday [Wednesday, June 28] is a picture of possible attempts at intervening from the Executive on TV Perú” ([WAJ, 2023](#)).

The above implies that the deterioration of freedom of expression and the press in Peru is ongoing. The country dropped from the previous year’s score by 8%, getting 50.69 points out of a maximum of 100, ranking 12th in the “in restriction” category of freedom of expression and the press. Since 2021’s [Chapultepec Index](#), Peru has gone nearly 20 points down.

The four realms analyzed are at the moderate negative influence level, with the exception of the Control over the Media realm, which records slight influence. The increase of Legislative and Judicial environments’ influence on the Citizens Free to Express themselves realm is remarkable as the scores are 4.28 and 3.11 points respectively.

Realm A: Violations to free speech

Compared to last year's results, Citizens Free to Express Themselves is the most affected realm. Scoring 9.89 points, it obtained less than half of the maximum possible points (23 points). In this case, both the Legislative and Executive exerted the greatest negative influence; while the level of negative influence of the Judiciary went from mild to moderate.

- Information flow: this subrealm scored 6.11 points out of a total of 11. A landmark instance was the difficulties put up for the presence of TV Perú reporters in the Government Palace last June, after its reporters carried out critical coverage of the actions by the Executive Branch.

- Free speech: this subrealm featured a dramatic drop from 6.6 points to only 3.78, which represents less than a third of the total of 12 possible points. The nationwide deterioration of freedom of expression is evident, mainly in moments of demonstrations by citizens.

Suffices to remember the “49 protesters and bystanders—among them 8 minors under 18 years of age—who died after being injured during the protests that took place in Peru between December 7, 2022 and February 2023” ([HRW, 2023](#)). “The evidence shows that the Armed Forces and the PNP made disproportionate and indiscriminate use of force against protesters and bystanders, in clear violation of international law”, a Human Rights Watch investigation last April concluded.

Realm B: a constantly threatened exercise

The Exercise of Journalism realm has also suffered a deterioration. Its score dropped

from 6 to 5.33 points from a maximum of 10. The previously mentioned rallies also harmed journalists. According to a retelling by the National Association of Journalists (Asociación Nacional de Periodistas, ANP), “more than 170 journalists were assaulted, harassed, threatened, beaten and arbitrarily arrested while covering the nationwide protests” that began after former President Pedro Castillo’s failed coup d’état and Dina Boluarte’s coming to power ([CPP, 2023](#)).

In this realm, the case of the issuance of the “Inter-institutional action protocol for coordination and attention to journalists and media employees in the context of disturbance to public order” drafted by the National Police’s staff and the ministries of the Interior, Health, Justice and the Association of Journalists of Peru, is also relevant. The document implied supervision or regulation of press coverage by the police.

“The protocols for press coverage in other countries are set by the media and civic organizations themselves. Then they present it to the provinces and demand that these safeguards be respected, not the other way around, as happens here”, said Adriana León, head of the Institute of Press and Society’s (Instituto de Prensa y Sociedad, IPYS) Freedom of the Press Area of the, to Infobae about the protocol. “(...) The police cannot tell you where you should stand [during a rally]” ([Infobae c, 2023](#)), she added.

Dimension C: Historical peak for violence

Once again, Violence and impunity against freedom of expression and the press in Peru turned out to be the worst assessed of all the realms. Only 11.58 points out of 42 possible, a decrease of 3.12 points compared to the previous year’s score.

Certainly, when it comes to the press, violence does not come exclusively from government actors. Third-party attacks against journalists who do their job in the community happen once and again. This is exemplified by the assaults an América TV team was subjected to while covering January 19’s all-day-long rally on the first day of the national rally known as “Toma de Lima”.

Newspersons Abdías Vidarte and Cristian Ydoña reported that they were stoned while they were inside the media outlet’s transportation. Both had laceration in several body parts, while Vidarte lost two teeth as a result of the assault ([ANP, 2023](#)).

On behalf of the government, the case of violence against documentary filmmaker Kenty Aguirre is a landmark. On July 28, 2023, the main day of the national holidays in Peru, a rally against Dina Boluarte’s government was developing in Lima. Aguirre had come to record the protests on his own.

While the came rolled on the arrest of a community leader, the documentary filmmaker was clubbed by police officers until they managed to subdue and arrest him. Aguirre told El País that in the police car, an officer open-handedly hit him. “My face hasn’t bled. Most of the blows were aimed at the extremities. It seems like the police knew where to hit you so as not to leave so many bruises. “What has hurt me the most has been my knees,” he explained ([El País, 2023](#)).

The documentary filmmaker had 17 arm and leg injuries, recorded on medical check, and

he spent two days under arrest. However, only two months later they returned belongings such as his cell phone and camera.

Realm D: a suspended control

Finally, Control Over the Media is the best ranked compared to the other realms. It scored a total of 23.89 points out of a possible 25. This is a slight improvement compared to last year. It suggests that the media have become independent to publish despite the obstacles for free news coverage and the repression unleashed on them.

However, a landmark is the [appointment](#) last May of former director of the President's Office Strategic Communication and Institutional Image Ninoska Chandia, as chair of IRTP last May.

"I believe that it can be interpreted as a decision by the government and, particularly, by the President of the Republic to directly control the content that is broadcast on both TV Perú and Radio Nacional. (...) By assigning a person so closely linked to her, [Dina Boluarte's] only message is that 'I am going to directly control what you say and what you post'" ([El Comercio c. 2023](#)).

Conclusions

Impressively, since 2021's Chapultepec Index to the current, Peru has gone nearly 20 points down. Last year, Perú dropped one position, ranking 12th and featuring at a freedom of expression and press restriction category.

It is worrying how the right to freedom of expression has been affected. It is highly breached by a violent and disproportionate response of the Peruvian armed forces and police in times of social demonstrations.

For the second consecutive year, the Executive and the Legislative had the heaviest negative influence on the quality of freedom of expression and the press. Regarding the Executive, it is important to seek improvements to prevent cases of restriction of free news coverage from starting a trend. And as for the Legislative, it is vital to keep wide-open eyes on initiatives intended to support press self-censorship, e.g., "gag rules".

Ultimately, once again the right to freedom of the press prevails due to how institutions are established in the nation. However, the scenario is one of high danger, where human rights have been violated with a regrettable outcome of dozens of deaths.

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