

### Peru: Positive indicators in the midst of the crisis

#### Executive summary

The perception of the experts surveyed is that Peru has a low level of restriction on freedom of expression, mainly based on a perception of full freedom of expression with regard to the control over the media by State environments [branches of government]. On the other side of the spectrum, there is a perception that, in Peru, there are partial restrictions regarding prevention of violence and impunity, which reflects a pattern where there are no laws to protect journalists, which encourages persecuting or exerting undue influence over them.

#### Introduction

The period covered by the survey in this report has been one of instability and change in Peru's political and legal outlook. After the political crisis of 2018, resulting in the resignation of President Pedro Pablo Kuczynski, the confrontation between the executive and legislative branches ensued, ending that year in a referendum proposed by the government to enact four constitutional amendments.

During 2019, corruption scandals in the judicial branch – unveiled by a group of journalists – deepened the crisis and confrontation between the branches of government, when the congressional majority refused to investigate or remove some of the judges under scrutiny. This led President Martín Vizcarra to propose early elections, shortening his term in office but also that of the Congress [Legislative].

The power struggle ended with the shutdown of Congress in September 2019 and parliamentary elections to close the 2016-2021 period. This brought some political calm until March 2020, when the new Congress was inaugurated and the mandatory confinement following the COVID-19 pandemic began. In this context, the press has taken a stand for one or another political sector, receiving pressure and accusations about hidden agendas and editorial policies for sale.

#### Results analysis on institutional environments

The perception of those surveyed yields an overall index of 67.8 out of 100 points possible, placing Peru sixth among the countries reviewed regarding freedom of expression. There is a perception of low restriction on access to information and the exercise of journalism, and full freedom from attempts at controlling the media.

The poorest performing indicator is the perception of violence against exercising journalism, where 19.2 points out of a possible 42 were obtained, indicating a perception of minimum protection for journalists and the existence of impunity for actions restricting free speech.

### **Legislative environment**

In general, the legislative environment has the greatest influence on restricting free speech (2.41). The Congress that concluded in September had introduced draft bills to restrict government advertising - the main source of income for many media outlets – or toughen penalties for defamation. Additionally, the majority party used congressional funds in hiring staff to slander those considered as its opponents, be it politicians or members of the press.

### **Judicial environment**

The judicial environment is perceived in second place regarding influence on freedom of expression (2.37). It is noteworthy that this environment has been exposed in recent years by journalistic reports revealing high levels of corruption, money laundering, and rigged penalties by several of its members. This spawned measures that attempted at compelling journalists to reveal their sources, as well as seizing their assets, or bringing court action against them as forms of pressure.

### **Executive environment**

The government branch with the least influence in situations discouraging free speech is the executive environment (2.31), achieving the highest scores for protective actions and access to information. This is mainly due to inaction or delays by the national government rather than concrete actions against free speech. In some cases, however, it is clear that regional governments [departments] have had an influence on the exercise of freedom of expression in Peru.

### **Realm A: Well-informed citizens**

The results of the survey indicate that the sentiment regarding the possibility for citizens to be able to express and inform themselves is very strong, placing the indicator very close to full freedom. There is a sense of appropriate access to information, although there have been cases when some offices of the legislative or executive branches have been opaque in granting access to [information on] certain expenditures or the use of certain funds. As part of the initiative to establish entities addressing access to public information as of 2018 – albeit with limited progress last year, information websites facilitate access to allocation of funds and awarding of contracts in most cases.

This has led some authorities to try to exert pressure following certain information disclosed by the press, in the form of legislative initiatives or filing of complaints in court, which have not been successful, as the CPP (Peruvian Press Council [Consejo de la Prensa Peruana]) points out in its 2019 report. However, in local government environments, access to information is much more opaque. Furthermore, news media outlets themselves have fewer resources to apply pressure for or access sensitive information to uncover acts of corruption, which is one of the main problems in Peru.

The media structure in Peru is one of large conglomerates, mostly making up a nationwide news duopoly, and a number of local media outlets surviving in a rather vulnerable manner. This means that, at national government, the power of the media makes them more capable of reacting and defending themselves against threats or pressures. It is the independent and regional press the ones suffering under the pressure from the authorities, and being brought defamation charges seeking to prevent them from publishing matters affecting certain interest groups in the country. Peruvian legislation and even the slow pace of court proceedings allow this to be used as a way of restricting some journalistic investigations.

### **Realm B: Exercise of journalism under appropriate conditions**

The exercise of journalism in Peru is perceived to have low restrictions by the experts surveyed, in reason of a lesser extent of pressure on some sectors of the press, pressure that was present until the first half of the period under review. During this period, members of the Judiciary, supported by some members of the Legislative, tried to force some journalists to disclose their sources, in a clear indication of attempts at interfering with the whistleblowing about them.

Parliamentary immunity allowed for verbal attacks and threats against some journalists who were critical of some members of the legislative branch. However, this did not materialize into censorship or restrictions on information. With the Congressional shutdown, this diminished markedly. This shutdown also rendered ineffective draft bills providing for mandatory affiliation to professional associations in order to exercise journalism in the country, which had been noted as a means of restricting journalistic work (Consejo de la Prensa Peruana, 2019).

As the pandemic has advanced in 2020, access to information has been restricted and, in different regions of the country, local journalists who have blown the whistle on poor management of the health crisis and lack of resources in local hospitals have been threatened, attacked, or slandered by regional officials (Asociación Nacional de Periodistas del Perú, 2020).

There is an example of institutional pressure against the practice of journalism on record. In November 2019, a prosecutor in the region of Ancash, in the Northeast of the country, demanded that journalist Hugo Gonzales disclose the sources allowing him to report acts of corruption by the lieutenant governor of that department (IPYS, 2020).

## **Realm C: An environment with a degree of violence and impunity against the media**

The perception of actions to protect journalists against acts of violence and impunity is the lowest of all realms in Peru's case, thereby achieving less than half of the maximum score, 19.2 points out of a possible 42, indicating a country with partial restrictions on the exercise of freedom of expression. The different environments are deemed responsible for similar measures so that no protective actions are taken with regard to journalists. During this period, several people hired as congressional advisors were found to be part of a network of defamation and attacks on politicians and several journalists by means of fake accounts (La República, 2020), from which they posted an average of 100 messages per day on social media.

Different media linked *Fuerza Popular*<sup>1</sup> congresswoman Rosa Bartra to a group naming itself *La Resistencia* (The Resistance), as she was seen on social media at an address encouraging them [members of this group] to carry out larger attacks. Members of *La Resistencia* were identified as part of the group that organized sit-ins and made threats in June and August 2019 around the premises of *IDL-Reporteros*, a media outlet that blew the whistle on acts of corruption by different Peruvian governments and published investigations involving a corruption ring of judges and public prosecutors.

Nevertheless, these are not the only acts of violence against freedom of expression. There are years-long protracted trials of lawsuits. As cases in point, members of a religious community singled out by journalists Paola Ugaz and Pedro Salinas for sexual abuse filed a complaint against them; or attempts at seizing the assets and databases of media outlets that have reported money laundering or acts of corruption – as happened to the *IDL-Reporteros* or *Ojo Público* (Public Eye) websites in April 2019 – at the same time that the legislature was pushing for laws to toughen penalties on defamation, including against those who do so on social media (CPP, 2019).

Journalists working in departments outside of Lima are more affected by acts of intimidation, threats, and violence. Since January 2020, Deysi Mina, a journalist from Ayacucho, has gone missing. Additionally, poor management of the health crisis by local authorities has resulted in actions against journalists reporting on the issue, such as the cases of Pablo Rojas, who was attacked in Arequipa in March 2020, Juan López and Carlos Armas, journalists from Ucayali targeted by smear campaigns on social media, or the threats made by Mesías Guevara, Governor of Cajamarca, against journalists who criticized his performance during the pandemic.

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<sup>1</sup> Translator's Note (TN): A conservative political party headed by Keiko Fujimori, daughter of former Peruvian president Alberto Fujimori.

## **Realm D: Media free from control measures**

Respondents' perception on control over the media is the most positive. It scores highest for Peru, with the lowest indicators of influence from the different environments. No direct or indirect control actions are perceived, although the management of funds to buy advertising space is noticed to pose a threat to freedom of expression, especially in departments outside of Lima.

Given the existence of a private media ecosystem relying on advertising for subsistence, there are areas of Peru where the funds that local governments allocate for advertising are the main source of income for local media. This creates the possibility of pressure on media outlets opposing local authorities, by choosing not to allocate ads in them.

In the case of media licenses, the market is saturated and there are few possibilities for new licensing, which have largely favored major powerful media groups, thereby preserving their dominant positions.

## **Conclusions**

The general perception of freedom of expression in Peru during the period reviewed is positive. The country is going through years of political instability, which encourages pressure on the work of journalists. Nevertheless, in most cases, this has been appropriately addressed, and the different news media have been able to rely on newsmen's activity.

The shutdown of the previous Congress brought months of greater stability, but, in March, a new Congress was inaugurated, and new confrontations with the executive branch sparked. The advent of the COVID-19 pandemic that month also generated a situation that made journalists' work more vulnerable, regarding both staffing and health, as well as in terms of access to information.

For the next period, it will be important to look at the possibilities of access to information achieved both in the legislative environment – which has shown to keep several of the practices of the previous congress – and in the executive environment, which, as the pandemic has spread, has begun to restrict media access to the President's conferences, as well as handle pandemic data with opacity.

In this context, none of the environments is expected to show concern about advancing administrative measures or legislative initiatives providing spaces to improve conditions for the exercise of journalism or freedom of expression, either by preventing cases of violence or by protecting journalists from situations that endanger or make their work difficult.

The practice of filing lawsuits against journalists and dragging them to long and cumbersome trials – either by appealing sentences or by filing new complaints – has become a common practice. This is clearly a way of trying to censor whistleblowing and intimidate other journalists into investigating powerful institutions or individuals. With a corrupt and inefficient judicial environment and legislation allowing this to

happen, a structure that is unlikely to change in towards improving the conditions for freedom of expression is thereby perpetuated.

Observing whether these situations remain, subside, or become more complex is part of what should be reviewed in subsequent reports, to understand whether the indicators for Peru, which in this case have been quite positive, maintain their levels or not.

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