



**PERU: SUBMISSION TO THE UN HUMAN RIGHTS COMMITTEE
137TH SESSION (27 FEBRUARY TO 24 MARCH 2023)**

Introduction

CIVICUS: World Alliance for Citizen Participation provides the following information with respect to human rights in Peru to the United Nations (UN) Human Rights Committee (the Committee) in advance of its fourth periodic review of Peru's obligations under the International Covenant on Civil and Political Rights (ICCPR) at the Committee's 137th session. This submission was drafted with the support of Asociación Pro Derechos Humanos (APRODEH).

In this document, CIVICUS sets out main concerns regarding the implementation of the ICCPR by Peru, focusing on civic space issues, and specifically, the rights to freedoms of expression (Article 19), peaceful assembly (Article 21) and association (Article 22). This submission provides information, in particular, on issues addressed in paragraph 21 of the List of Issues adopted by the Committee for the review of Peru.

Key concerns

We are deeply concerned by pervasive violence against human rights defenders (HRDs) and civil society groups, who continue to face attacks, harassment, stigmatisation and killings. Despite the newly adopted protection mechanisms, state and non-state actors perpetrating abuses have been able to escalate attacks with impunity. We are further alarmed by judicial harassment against journalists and gradual reduction of the space for a free and independent press.

We also underscore that security forces in Peru have often resorted to disproportionate force in policing protests in the context of the country's ongoing political and institutional crisis. Lack of accountability for the use of excessive force has contributed to cycles of violence.

Freedom of expression (Article 19)

Article 2, clause 4 of the Political Constitution of Peru guarantees freedom of expression ‘whether oral, written, or in images, through any medium of social communication, and without previous authorization, censorship, or impediment’.¹ However, despite these legislative protections, the exercise of this right in Peru is undermined by practices such as judicial harassment, intimidation and attacks on the press.

In May 2022, the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) visited Peru.² In the preliminary observations following the visit, the Special Rapporteur’s Office noted a polarised political and social context, with the persistence of norms and practices that negatively impact on the full enjoyment of the right to freedom of expression. Among issues highlighted were a serious deterioration of the public debate, with the dissemination of campaigns aimed at threatening and silencing people for their political opinions. In addition, there were daily limitations on the work of the press, a climate of violence and hostility against journalists and the media, and ongoing attempts to exclude dissenting opinion, including through physical violence.

Criminal defamation and judicial harassment

Articles 130 to 138 in Peru’s Penal Code typify and establish sanctions for defamation, libel and slander. Defamation committed ‘by means of a book, the press or other means of social communication’ is punishable with prison sentences of one to three years and fines (article 132).³

Between 2018 and 2022, there were attempts to harden criminal defamation laws, but these initiatives stalled in Congress. In one example, Bill 4275/2018-CR introduced in May 2019 proposed modifying article 132 to increase penalties and include defamation over social media among the offences carrying higher sanctions.⁴ The initiative was withdrawn in September 2019.⁵

More recently, in August 2022, congressman Segundo Montalvo of the governing party, Peru Libre, introduced a bill (02862/2022) to increase penalties for defamation, slander and the

¹ Political Constitution of Peru, 1993 (amended 2021), https://www.constituteproject.org/constitution/Peru_2021?lang=en.

² The Special Rapporteurship for Freedom of Expression of the IACHR concludes its visit to Peru and presents its preliminary observations and conclusions on freedom of expression in the country, 2 June 2022, <https://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1239&IID=2>.

³ Penal Code (Legislative Decree No 635), <https://diariooficial.elperuano.pe/pdf/0034/codigo-penal-29.07.2020.pdf>.

⁴ Bill 4275/2018-CR: Law Regulating the Improper Use of Social Media, https://static.legis.pe/wp-content/uploads/2019/05/PL-04275-20190503_Legis.pe_.pdf.

⁵ Bills 2016 – 2021, Congress of Peru, <https://www.congreso.gob.pe/pley-2016-2021>.

‘improper use of media, social networks or collective dissemination websites’.⁶ The initiative proposes modifying the Penal Code to increase fines and jail terms for these offences. It is currently under consideration of the congressional Justice and Human Rights Committee.

Lawsuits for ‘crimes against honour’ are frequently used to criminalise and judicially harass journalists, media outlets and publishers. Often these accusations are used to intimidate and drain the resources of those exposing corruption, investigating human rights violations and expressing criticism of powerholders.⁷ Convictions are not common but do take place.

On 10 January 2022, a criminal court in Lima found journalist Christopher Acosta and Penguin Random House Peru director Jerónimo Pimentel guilty of defaming politician César Acuña. They were both sentenced to two-year suspended prison terms. The ruling also ordered Acosta, Pimentel and Penguin Random House Peru to pay Acuña approx. US\$100,000 in damages. Acuña filed his lawsuit in response to a book written by Acosta, in which numerous named sources alleged that Acuña engaged in vote-buying, misappropriation of public funds and plagiarism throughout his political career.⁸ According to the IACHR Special Rapporteur for Freedom of Expression, the court ruling could set a negative precedent in Peru by limiting the citation of sources and other legitimate journalistic practices.⁹

Another concerning case is that of journalists Pedro Salinas and Paola Ugaz, who have faced years of judicial harassment by people linked to religious organisation Sodalitium Christianae Vitae (SVC) after publishing a book on the group in 2015. Their investigation exposed alleged practices of physical, psychological and sexual abuse of minors by SVC members.¹⁰ Ugaz faces five separate defamation lawsuits in civil and criminal courts brought by people with ties to SVC.¹¹

Attacks on journalists and media outlets

Journalists are targets of harassment and attacks for exposing human rights abuses, in particular when denouncing corruption and public mismanagement, and covering conflict and protests. These attacks saw a significant jump in 2020 amid the COVID-19 pandemic and mass protests that followed the ousting of President Martín Vizcarra in November 2020.

⁶ Bill 02862/2022-CR, <https://wb2server.congreso.gob.pe/spley-portal/#/expediente/2021/2862>.

⁷ Voces del Sur, February 2021, *op. cit.*

⁸ ‘Peruvian court convicts author, publication director on defamation charges for book on politician’, Committee to Protect Journalists (CPJ), 13 January 2022, <https://cpj.org/2022/01/peruvian-court-convicts-author-publication-director-on-defamation-charges-for-book-on-politician>.

⁹ IACHR, 2 June 2022, *op. cit.*

¹⁰ ‘Peru: Awajun leader killed as community resists mining in their territory’, CIVICUS Monitor, 1 April 2020, <https://monitor.civicus.org/updates/2020/04/01/peru-awajun-leader-killed-community-resists-mining-their-territory>.

¹¹ ‘Investigative journalist Paola Ugaz faces criminal defamation suit in Peru’, CPJ, 22 September 2020, <https://cpj.org/2020/09/investigative-journalist-paola-ugaz-faces-criminal-defamation-suit-in-peru>.

Voces del Sur registered alerts for 34 attacks and seven cases of stigmatisation of journalists during 2020.¹²

This trend continued in 2021 in the context of highly polarised presidential elections. The National Association of Journalists of Peru (ANP) registered 206 attacks on journalists in 2021. At least 71 referred to incidents between 11 April and 6 June when the electoral campaign, voting and confirmation of results were underway. This included harassment, threats, stigmatisation, cyberattacks and physical and verbal attacks.¹³

Members of the press have also been frequently targeted by extremist groups. In October 2021, members of La Resistencia assaulted a press team from Radio Exitosa when they were driving in Lima and threatened journalist René Gastelumendi as he was covering a book launch by former President Francisco Sagasti.¹⁴

A climate of hostility endured under Pedro Castillo's presidency, which was marked by governance challenges and polarisation, with the government often at odds with an opposition-led Congress. On multiple occasions in 2022, journalists were physically attacked by supporters of public officials across the political spectrum – at local, regional and national levels.¹⁵ In addition, press workers faced intimidation, assaults and attempted lynchings while covering protests. These attacks were carried out by protesters and security forces disrupting demonstrations. At least eight journalists were attacked while covering national protests against surging prices of food, fertiliser and fuel in April 2022, with cases registered in Ica, Lima and Pucallpa.¹⁶ On 6 April 2022, for instance, a team of reporters with América Televisión had to take refuge in a hotel to avoid a group of protesters threatening to lynch them.¹⁷

As the country was engulfed in a political and social crisis following the ousting and arrest of former president Pedro Castillo on 7 December 2022, journalists covering demonstrations were attacked by police forces cracking down on nationwide protests. On 7 January 2023, EFE photojournalist Aldair Mejía was threatened by the police for recording the arrest of a

¹² 'Shadow Report On The Implementation Of The United Nations Sustainable Development Goal Indicator 16.10.1 In Latin America In The Year 2020', Voces del Sur, February 2021, <http://www.vocesdelsurunidas.org/wp-content/uploads/2021/07/Reporte-Sombra-2020-1-1.pdf>.

¹³ 'The Special Rapporteur For Freedom Of Expression Of The IACHR presents his preliminary observations and recommendations following his first visit to Peru', Inter-American Commission on Human Rights (IACHR), 2 June 2022, https://drive.google.com/file/d/1Vji_alPvcErRJmoP_B5J7QjMnLuv6RrW/view.

¹⁴ 'Communities impacted by mining and oil extraction lead wave of protests in Peru', CIVICUS Monitor, 2 February 2021, <https://monitor.civicus.org/updates/2021/12/02/communities-impacted-mining-and-oil-extraction-lead-wave-protests-peru>.

¹⁵ 'Peru: attacks on journalists as political polarisation remains prominent,' CIVICUS Monitor, 27 October 2022, <https://monitor.civicus.org/updates/2022/10/27/peru-attacks-journalists-political-polarisation-remains-prominent/>.

¹⁶ 'ANP registra agresiones a ocho periodistas en paro nacional,' 4 April 2022, <https://anp.org.pe/anp-registra-agresiones-a-ocho-periodistas-en-paro-nacional/>.

¹⁷ 'Perú: periodistas se resguardan en hotel ante amenaza de manifestantes que intenta lincharlos,' IPYS, 6 April 2022, <https://ipys.org/libertad-de-expresion/alertas/peru-periodistas-se-resguardan-en-hotel-ante-amenaza-de-manifestantes-que-intenta-lincharlos>.

citizen in Juliaca. Agents who harassed Mejía told him, ‘if you do that again, I’ll blow your head off’. He was later shot in the leg with pellets by security forces.¹⁸ Between the outbreak of protests in December and 10 January 2023, the ANP recorded at least 72 cases of violations of the work of media and aggressions against journalists. In most of these cases, ANP president Zuliana Lainez said, police and military personnel were identified as the aggressors.¹⁹

Access to information

Peru has a Law on Transparency and Access to Public Information (No. 27,806), enacted in 2002.²⁰ Data from the Ministry of Justice and Human Rights shows that compliance with access to information legislation has advanced in recent years, with challenges remaining particularly at the level of local and regional authorities.

In its 2021 report, the National Authority for Transparency and Access to Public Information (ANTAIP) stated that it lacks the power to apply sanctions on public officials and entities that fail to comply with their obligations.²¹ In June 2021, the Council of Ministers approved a bill amending Law No. 27,806 and Law No. 29,733 on Protection of Personal Data to reduce loopholes that have led to power abuses, improve the processing of requests for access to public information and enhance the autonomy of the oversight agency. The bill was presented to Congress in the same month, but its consideration stalled in the Commission of Justice and Human Rights.²²

In addition, access to information rights have been undermined by the authorities through bureaucratic restrictions. During the first months of Castillo’s government, which began in July 2021, officials failed to provide information on the president’s official agenda and members of the press were often refused access to important public events. Members of the president’s security team sought to obstruct the work of journalists attempting to approach him during public events.²³ On 2 June 2022, the Institute Press and Society (IPYS) warned

¹⁸ ‘Dozens of journalists harassed, injured amid Peru protests’, Committee to Protect Journalists, 11 January 2023, <https://cpj.org/2023/01/dozens-of-journalists-harassed-injured-amid-peru-protests/>.

¹⁹ ‘Perú: At least 72 attacks against media recorded by ANP since start of political crisis’, 10 January 2023, <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/peru-at-least-72-attacks-against-media-recorded-by-anp-since-start-of-political-crisis.html>.

²⁰ Ley Nº 27806: Ley de Transparencia y Acceso a la Información Pública, 2002, https://www.peru.gob.pe/normas/docs/LEY_27806.pdf.

²¹ ‘Informe anual sobre solicitudes de acceso a la información pública 2021’, Autoridad Nacional de Transparencia y Acceso a la Información Pública, March 2022, <https://cdn.www.gob.pe/uploads/document/file/3103438/Informe%20Anual%202021.pdf>.

²² Bill 07870/2020-PE: https://www2.congreso.gob.pe/sicr/tradocestproc/Expvirt_2011.nsf/visbusqptramdoc1621/07870?opendocument.

²³ IACHR, 2 June 2022, op. cit.

that President Castillo had completed 100 days without responding or giving press statements.²⁴

Media concentration

Reporters in Peru have reported facing pressure within news outlets to produce journalistic coverage that follows the political orientation of their editorial lines. The ANP reported that over 10 communicators and a director working with América Televisión and Canal N were forced to resign in the run-up to the 2021 presidential election after refusing to follow instructions to favour one presidential candidate over others.²⁵ According to Reporters Without Borders, there is plurality in Peruvian media but in Lima the predominant editorial line is politically and economically conservative.²⁶

The Human Rights Committee should recommend that the Peru government:

- Reform legislation on defamation, including by removing provisions in the Penal Code, to ensure it is not used to censor journalistic work and bring it into conformity with international standards.
- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the government or other powerholders may deem sensitive.
- Adopt a framework for the protection of journalists from persecution, intimidation and harassment.
- Implement legislative measures to improve access to information mechanisms in order to promote the full exercise of the rights to freedoms of expression and opinion.

Freedom of peaceful assembly (Article 21)

Article 2, clause 12 of Peru's Constitution guarantees the right to freedom of peaceful assembly. Assemblies held in squares and on public roadways do not require prior authorisation but relevant authorities must be given advance notification. Authorities may 'prohibit such meetings solely for proved reasons of safety or public health'.²⁷ However, in practice, the exercise of freedom of peaceful assembly continues to be constrained by repeated use of excessive force against protesters and legislation that enables the criminalisation of protesters.

²⁴ 'Perú: se cumplen 100 días sin que el presidente responda a la prensa', Institute Press and Society (IPYS), 2 June 2022, <https://ipys.org/noticias/libertad-de-expresion/peru-se-cumplen-100-dias-sin-que-el-presidente-responda-a-la-prensa>.

²⁵ 'Peru: polarised elections lead to protests and attacks on journalists', CIVICUS Monitor, 5 August 2021, <https://monitor.civicus.org/updates/2021/08/05/peru-polarised-elections-lead-protests-and-attacks-journalists>.

²⁶ World Press Freedom Index 2022: Peru, Reporters Without Borders, <https://rsf.org/en/country/peru>.

²⁷ Political Constitution of Peru, 1993 (amended 2021), op. cit.

Excessive use of force

Security forces in Peru repeatedly resort to excessive force when policing protests. When thousands took to the streets in November 2020 to protest against the removal of President Vizcarra by Congress, police repressed protesters with indiscriminate use of force.²⁸ According to the Ombudsperson's Office, in some instances officers used banned ammunition, such as lead pellets and glass marbles, and shot directly at protesters, targeting the most sensitive parts of the body and high-risk areas, which resulted in fatal and serious injuries.²⁹ On 14 November 2020, two young protesters, Bryan Pintado and Inti Sotelo, were killed by lead pellet shots. Between 10 and 14 November, at least 47 people were detained and 200 injured in the demonstrations. Forty journalists were attacked while covering the protests.³⁰

In October 2021, Peru's Attorney General presented a criminal complaint against former President Manuel Merino, and his cabinet ministers Antero Flores Aráoz and Gastón Rodríguez, to hold them responsible for the homicides and injuries that occurred during the November 2020 crackdown on protests.³¹ However, a congressional investigation recommended the complaint be archived. Legislators approved this on 1 July 2022.³² Eleven high officials in the National Police face charges over the repression of protests.³³

When nationwide unrest broke out again in December 2022, Peru's authorities again sought to curb protests with disproportionate force. Between 8 December 2022 and 10 January 2023, at least 45 people, among them minors, have died. According to the National Human Rights Coordinator (CNDDHH), at least 39 of these were killed in the repression of protests.³⁴ 18 were killed in Juliaca, Puno, on 9 January 2023 alone, as security forces escalated violence

²⁸ Ibid.

²⁹ 'Informe Especial N° 01: Movilizaciones Sociales Noviembre 2020', Defensoría del Pueblo, March 2022, <https://www.defensoria.gob.pe/wp-content/uploads/2022/03/Informe-movilizaciones-.pdf>.

³⁰ 'Informe Anual De La Relatoría Especial Para La Libertad De Expresión 2020', IACHR, 30 March 2021, <https://www.oas.org/es/cidh/docs/anual/2020/capitulos/rele.PDF>.

³¹ 'Fiscal de la Nación denunció constitucionalmente a Manuel Merino, Antero Flores y Gastón Rodríguez por caso Inti y Bryan', Government of Peru, 4 October 2021, <https://www.gob.pe/institucion/mpfn/noticias/542473-fiscal-de-la-nacion-denuncio-constitucionalmente-a-manuel-merino-antero-flores-y-gaston-rodriguez-por-caso-inti-y-bryan>.

³² 'Informe final homicidio Inti Sotelo y Bryan Pintado / Comisión de acusaciones constitucionales', June 2022, <https://www.scribd.com/document/577712091/Informe-final-homicidio-Inti-Sotelo-y-Bryan-Pintado-Comision-de-acusaciones-constitucionales>; 'Perú: Congreso frena indagación a expresidente por homicidio', Associated Press, 2 July 2022, <https://apnews.com/article/noticias-774b30a96d095f7ca0f6f6761cf790ba>.

³³ IACHR, 2 June 2022, op. cit.

³⁴ '¡Alto a las masacres!', CNDDHH, 10 January 2023, <https://derechoshumanos.pe/2023/01/alto-a-las-masacres/>.

after a group of protesters attempted to storm the local airport.³⁵ Nine people died from injuries caused by firearms and one medical worker was killed while administering aid.³⁶

During the turmoil, civil society organisations (CSOs) have also reported arbitrary arrests, house raids, the use of prohibited munition, disproportionate use of teargas and instances of officers firing teargas canisters from close range directly at protesters' bodies. Hundreds of civilians have been injured, many of them from firearms.³⁷

Some of these abuses took place after 14 December 2022, when interim President Dina Boluarte declared a 30-day nationwide state of emergency, suspending some fundamental rights, such as freedoms of movement and peaceful assembly. The decree allowed searches without a warrant and enabled the deployment of armed forces to support the police in maintaining public order.³⁸ Emergency measures were extended on 14 January 2023 in the departments of Cusco, Lima and Puno as well as in regions of several other departments. In Puno, the restrictions included a curfew.³⁹ Human Rights Watch expressed particular concern about the deployment of armed forces, underscoring that they do not have the equipment, training, or mission to carry out tasks related to the policing of protests and maintenance of public order.⁴⁰

In recent years prior to the current crisis, there also were multiple cases of repression of protests organised by Indigenous peoples, unions, campesino communities and communities affected by extractive industries. In December 2020, for instance, repression of widespread protests by workers from the agro-export sector resulted in three deaths.⁴¹ On 8 August 2020, three Indigenous people from the Kukama Kukamiria community were shot and killed by police during a protest calling for the suspension of oil extraction and highlighting the abandonment of their community amid the COVID-19 pandemic.⁴² In July 2019, the government deployed hundreds of police officers to remove road blockades organised by farmers and communities affected by the Tía María mine. Local groups

³⁵ 'Peru: Authorities must immediately cease excessive use of force against civilians and prevent further deaths,' Amnesty International, 10 January 2023, <https://www.amnesty.org/en/latest/news/2023/01/peru-must-cease-excessive-force-against-civilians/>.

³⁶ 'Comment by UN Human Rights Office spokesperson Marta Hurtado on Peru,' Office of the High Commissioner for Human Rights, 10 January 2023, <https://www.ohchr.org/en/statements/2023/01/comment-un-human-rights-office-spokesperson-marta-hurtado-peru>.

³⁷ CNDDHH, 10 January 2023, op. cit.

³⁸ Supreme Decree Nº 143-2022-pcm, 14 December 2022: <https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-declara-el-estado-de-emergencia-a-nivel-decreto-supremo-no-143-2022-pcm-2134229-1/>.

³⁹ Supreme Decree Nº 009-2023-PCM, 14 January 2023: <https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-declara-el-estado-de-emergencia-en-los-d-decreto-supremo-n-009-2023-pcm-2143247-1/>.

⁴⁰ 'Peru: Investigate Killings, Injuries During Protests,' Human Rights Watch, 22 December 2022, <https://www.hrw.org/news/2022/12/22/peru-investigate-killings-injuries-during-protests>.

⁴¹ 'Three defenders killed as attacks on Indigenous communities increase in the Peruvian Amazon,' CIVICUS Monitor, 9 April 2021, <https://monitor.civicus.org/updates/2021/04/09/three-defenders-killed-attacks-indigenous-communities-increase-peruvian-amazon>.

⁴² IACHR, 30 March 2021, op. cit.

reported that several people were injured in clashes with the police, which used teargas and pellets to crack down on the protesters.⁴³

Police Protection Law and extraordinary police services

Rather than promoting legislation and practices to guarantee freedom of peaceful assembly, in recent years Peruvian authorities have sought to shield officers from prosecution for abuses committed in demonstrations. On 27 March 2020, Congress enacted the Police Protection Law (No. 31,012), which modified legislation to exempt officers and soldiers from criminal responsibility for deaths or injuries caused while ‘fulfilling their constitutional duty’.⁴⁴ The reform revoked a provision on the regulation of the use of force that explicitly established that the use of force by security forces must be proportionate.⁴⁵

Experts called on authorities to repeal the law, arguing it did not comply with several international human rights law norms and standards.⁴⁶ At least three bills were introduced to repeal or reform Law 31,012, but none have moved forward and the legislation remains in place.⁴⁷ In December 2022, amid multiple reports of excessive force used against protesters, Amnesty International expressed concern that the Police Protection Law leaves open the possibility for excessive use of force by the national police to go unpunished, in contravention of Peru’s obligations under international law.⁴⁸

Peru’s legal framework also enables private sector companies to contract Peru’s national police force to provide ‘extraordinary police services’. Civil society monitoring shows that there were 138 such contracts signed between 1995 and 2018, 29 of which were still in effect in 2019. Most frequently, they involved services for extractive companies that have projects

⁴³ ‘Peru’s institutions in turmoil after Congress dissolution’, CIVICUS Monitor, 22 October 2022, <https://monitor.civicus.org/updates/2019/10/22/perus-institutions-turmoil-after-congress-dissolution>.

⁴⁴ CIVICUS Monitor, 22 July 2020, op. cit.

⁴⁵ Police Protection Law (No. 31,012), <https://busquedas.elperuano.pe/normaslegales/ley-de-proteccion-policial-ley-no-31012-1865203-1>.

⁴⁶ ‘Perú: nueva ley de protección policial ‘abre espacios de impunidad’, alerta ONU Derechos Humanos’, OHCHR in Peru, 1 April 2020, <https://acnudh.org/peru-nueva-ley-de-proteccion-policial-abre-espacios-de-impunidad-alerta-onu-derechos-humanos>.

⁴⁷ Bill 04970/2020-CR, https://www2.congreso.gob.pe/sicr/tradocestproc/Expvirt_2011.nsf/visbusqptramdoc1621/04970?opendocument; Bill 04986/2020-CR, https://www2.congreso.gob.pe/Sicr/TraDocEstProc/CLProLey2016.nsf/sicr/tradocestproc/CLProLey2016.nsf/debusq_ueda/F8FF84D23CBEF78B0525853E005E3FB0?opendocument; Bill 04965/2020-CR, https://www2.congreso.gob.pe/Sicr/TraDocEstProc/CLProLey2016.nsf/sicr/tradocestproc/CLProLey2016.nsf/debusq_ueda/C1EEFC72E413BDF80525853C005B2734?opendocument.

⁴⁸ ‘Peru: Crisis in the country must be addressed with full respect for human rights,’ Amnesty International, 12 December 2022, <https://www.amnesty.org/en/latest/news/2022/12/peru-crisis-human-rights/>.

located in regions with social uprisings and localities where their projects face resistance from local communities.⁴⁹

For several years, CSOs have identified these agreements as a source of mistrust toward the police and evidenced their contribution to human rights violations.⁵⁰ A Constitutional Court ruling in September 2020 found that these agreements were constitutional, despite magistrates acknowledging they could affect the perception of the police's objectivity.⁵¹

Criminalisation of protesters

Article 200 of Peru's Criminal Code broadly defines 'extortion' as any action that through violence, threats or by keeping someone hostage forces a person to concede any benefit or advantage, economic or otherwise. Since 2015, these charges have been used to criminalise protest actions that occupy premises, obstruct transportation routes and streets and disrupt public services. The offence carries penalties of between five and 10 years in prison.

Responding to a constitutional challenge by the Puno Lawyers Association, in 2020 Peru's Constitutional Court held that article 200 is constitutional but sought to reduce the potential for its application against the right to protest, recognising this as a protected right.⁵²

Despite this ruling, penal charges continue to be used to criminalise protests and their leaders. In 2020, a Cotabambas court acquitted 19 campesinos criminalised after protesting against the Las Bambas mine in 2015. The court referenced the Constitutional Court's recognition of the right to social protest as a constitutional guarantee.⁵³ However, prosecutors appealed against this decision and an Apurímac appeals court annulled the acquittal in July 2021. As of July 2022, the campesinos still face criminalisation.⁵⁴

In one emblematic case, Jesús Mariano Cornejo Reynoso, an environmental defender in the Tambo Valley, was convicted of 'mutiny' and 'obstruction of public services' and sentenced to seven years in prison for incidents that took place in protests against the Tía María mining

⁴⁹ 'Convenios entre la Policía Nacional y las empresas extractivas en el Perú', EarthRights International, Instituto de Defensa Legal and CNDDHH, February 2019, <https://earthrights.org/wp-content/uploads/Informe-Convenios-entre-PNP-y-empresas-extractivas.pdf>.

⁵⁰ 'A Recipe For Criminalisation: Defenders Of The Environment, Territory And Land In Peru And Paraguay', Brave and Amnesty International, 2018, <https://www.amnesty.org/en/wp-content/uploads/2021/05/AMR0181582018ENGLISH.pdf>.

⁵¹ CIVICUS Monitor, 19 November 2020, op. cit.

⁵² 'Tribunal Constitucional reconoce por primera vez el derecho fundamental a la protesta', Instituto de Defensa Legal, 7 July 2020, <https://www.idl.org.pe/tribunal-constitucional-reconoce-por-primera-vez-el-derecho-fundamental-a-la-protesta>.

⁵³ 'Juzgado Penal Unipersonal de Cotabambas absuelve de responsabilidad penal a 19 comuneros criminalizados por las protestas del año 2015', APRODEH, 28 October 2020, <https://www.aprodeh.org.pe/juzgado-penal-unipersonal-de-cotabambas-absuelve-de-responsabilidad-penal-a-19-comuneros-criminalizados-por-las-protestas-del-ano-2015>.

⁵⁴ 'Las Bambas: anulan sentencia absolutoria a comuneros criminalizados', Observatorio de Conflictos Mineros de Peru, 28 July 2021, <https://conflictosmineros.org.pe/2021/07/27/las-bambas-anulan-sentencia-absolutoria-a-comuneros-criminalizados/>.

project in Arequipa. Since 2011, Cornejo had coordinated actions against mining-related environmental contamination of the Tambo Valley.⁵⁵ In 2015, police repression of protests resulted in violent clashes. The Public Prosecutor's Office then sought to criminalise Cornejo Reynoso and another key local leader, former mayor Jaime Trinidad de la Cruz Gallegos, holding them responsible for these incidents.⁵⁶ They were sentenced by a lower court in January 2021 and their conviction was confirmed by an appeals court in February 2022.⁵⁷

The Human Rights Committee should recommend that the Peru government:

- Repeal the Police Protection Law (No. 31,012) in order to fully guarantee the right to freedom of peaceful assembly.
- Unconditionally and immediately release all protesters, HRDs and journalists detained for exercising their right to freedom of peaceful assembly and review their cases to prevent further harassment.
- Publicly condemn at the highest levels all instances of the use of excessive and brutal force by security forces in response to protests, launch formal investigations into such cases and bring the perpetrators to justice.
- Review and if necessary update existing human rights training for police and security forces, with the assistance of independent CSOs, to foster the more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.
- Provide recourse to judicial review and effective remedy, including compensation, in cases of unlawful denial of the right to freedom of peaceful assembly by state authorities.

Freedom of association (Article 22)

Article 2, clause 13 of the Peruvian Constitution guarantees the right to freedom of association. The Constitution ensures the right to establish foundations and other forms of not-for-profit legal organisations without prior authorisation and protects organisations against administrative dissolution. Article 28 of the Peruvian Constitution recognises 'the right of workers to join trade unions, to engage in collective bargaining, and to strike'.⁵⁸

Violence against HRDs and civil society organisations

⁵⁵ 'Perú: Condena del defensor medioambiental Jesús Mariano Cornejo Reynoso', FIDH and OMCT, 28 January 2021, <https://www.fidh.org/es/temas/defensores-de-derechos-humanos/peru-condena-del-defensor-medioambiental-jesus-mariano-cornejo>.

⁵⁶ UN Special Rapporteur on Human Rights Defenders, 13 July 2021, op. cit.

⁵⁷ 'Perú: Confirman condena contra Jesús Mariano Cornejo Reynoso', FIDH and OMCT, 22 February 2022, <https://www.fidh.org/es/temas/defensores-de-derechos-humanos/peru-confirmacion-de-la-condena-contra-jesus-mariano-cornejo-reynoso>.

⁵⁸ Political Constitution of Peru, 1993 (amended 2021), op. cit.

Despite the policy advances of the recent years, the environment for HRDs continues to be marked by violence, with dozens of cases of intimidation, harassment, stigmatisation, physical attacks and murders. According to Front Line Defenders, 17 HRDs were killed in Peru between 2018 and 2021.⁵⁹ Government inaction in the face of multiple attacks has allowed perpetrators to escalate violence with impunity.

In one example, defenders of the Tambopata National Reserve in Madre de Dios have faced threats and attacks by land grabbers and criminal groups since the construction of the Interoceánica roadway in 2012. On 11 September 2020, defender Roberto Carlos Pacheco was found dead, less than six months after warning authorities that his life was in danger.⁶⁰ His father Demetrio Pacheco, also an environmental defender, has continued to denounce threats against HRDs and the complicity of the authorities in deforestation and criminal activities taking place in the region.⁶¹

The case of Roberto Pacheco reflects a wider pattern of repeated attacks against land and environmental rights defenders. As reported by Global Witness, nine land and environmental defenders were killed in Peru between 2018 and 2020.⁶² Six of these killings happened in 2020, most of them amid the COVID-19 pandemic.⁶³

Those from Indigenous and ethnic communities are most at risk, in particular in the context of decades-long struggles for recognition of their right to their ancestral territories, drawn out land-titling processes and lack of compliance with their rights to free, prior and informed consent.⁶⁴

CSOs and activists dedicated to human rights face harassment and attacks in the context of increasing mobilisation by anti-rights groups. CSOs defending sexual and reproductive health, LGBTIQI+ rights and gender equality are frequently targeted and discriminated against. They are subjected to social media smear campaigns, intimidation and legal action. Their members are sometimes threatened with sexual violence and stigmatised as ‘feminazi terrorists’, ‘promoters of gender ideology’ and a ‘threat to traditional family values’.⁶⁵

⁵⁹ ‘Global Analysis 2018 – 2021’, Front Line Defenders, <https://www.frontlinedefenders.org/en/global-analysis>.

⁶⁰ CNDDHH, Twitter, 13 September 2020, https://twitter.com/cnddhh/status/1305175613829980160?s=20&t=jJTQQ-B40eHkNIT_ezeTUQ.

⁶¹ ‘Defensores ambientales sin protección’, La Mula, 5 June 2022, <https://redaccion.lamula.pe/2022/06/05/defensores-ambientales-sin-proteccion/redaccionmulera>.

⁶² ‘In numbers: Lethal attacks against defenders since 2012’, Global Witness, 2021, <https://www.globalwitness.org/en/campaigns/environmental-activists/numbers-lethal-attacks-against-defenders-2012>.

⁶³ CIVICUS Monitor, 19 November 2020, op cit.

⁶⁴ ‘Defending indigenous communities from the deadly effects of corruption’, Transparency International, 2 October 2020, <https://www.transparency.org/en/blog/defending-indigenous-communities-from-the-deadly-effects-of-corruption>.

⁶⁵ ‘End of mission statement by Michel Forst, United Nations Special Rapporteur on the situation of human rights defenders Visit to Peru, 21 January – 3 February 2020’, Office of the High Commissioner for Human Rights, 3

Feminist organisation Catholics for the Right to Choose – Peru spent almost three years battling a complaint that sought the cancellation of its legal status.⁶⁶ The case was filed in 2019 by an organisation linked to anti-rights collective Con Mis Hijos No Te Metas (Don't Mess With My Children) using the argument that the feminist group had used the term 'catholic' in bad faith.⁶⁷ The case was dismissed in May 2022.⁶⁸

Members of anti-rights groups have repeatedly adopted intimidatory practices such as surrounding the offices of organisations and harassing and attacking people entering and leaving the premises. The Legal Defence Institute (IDL) has been a constant target of these attacks. In March 2022, Asociación Pro Derechos Humanos (APRODEH) and CNDDHH filed a complaint against these groups, outlining their operation and showing the links between them.⁶⁹ On 21 April 2022, anti-rights groups stationed themselves outside the offices of APRODEH to intimidate staff.⁷⁰ Despite the consistency of these practices, and the threats by these groups of escalating attacks using firearms, little has been done by the authorities to dismantle them and bring perpetrators to justice.

In January 2023, members of extremist group La Resistencia organised intimidatory acts against IDL, APRODEH and CNDDHH, which have denounced the repression of protests with excessive force and other authoritarian abuses in the context of Peru's ongoing political crisis. The Observatory of the International Federation of Human Rights and the World Organisation against Torture (FIDH-OMCT) warned that in this context, the smear campaigns led by extremist groups are even more serious as they may legitimise and open the door to physical attacks against human rights organisations and their members.⁷¹

Criminalisation

There is a recurring pattern of misuse of criminal legislation against HRDs by state institutions and non-state actors. Peru's laws adopt excessively broad definitions for

February 2020, <https://www.ohchr.org/en/statements/2020/01/end-mission-statement-michel-forst-united-nations-special-rapporteur-situation?LangID=E&NewsID=25507>.

⁶⁶ 'State of Civil Society Report 2019 - Part 3: Challenging exclusion and claiming rights', CIVICUS, 2020, https://www.civicus.org/documents/reports-and-publications/SOCS/2020/SOCS2020_Exclusion_en.pdf.

⁶⁷ 'Organizaciones civiles rechazan demanda contra 'Católicas por el Derecho a Decidir' (RPP)', Instituto de Defensa Legal, 17 June 2019, <https://www.idl.org.pe/organizaciones-civiles-rechazan-demanda-contra-catolicas-por-el-derecho-a-decidir-rpp>.

⁶⁸ 'Poder Judicial declara infundada demanda que buscaba anular personería jurídica de CDD-Perú', Católicas por el Derecho a Decidir – Perú, 26 May 2022, <http://cddperu.org/es/informacion/nota-de-prensa/poder-judicial-declara-infundada-demanda-que-buscaba-anular-personeria>.

⁶⁹ 'Organizaciones de Derechos Humanos presentan denuncia penal contra violentos colectivos ultraderechistas', APRODEH, March 2022, <https://www.aprodeh.org.pe/organizaciones-de-derechos-humanos-presentan-denuncia-penal-contra-violentos-colectivos-ultraderechistas>.

⁷⁰ '#Denuncia', APRODEH, 21 April 2022, <https://www.facebook.com/aprodeh/posts/10159853238622485>.

⁷¹ 'Perú: Carta abierta a la Fiscal de la Nación sobre actos de intimidación contra organizaciones de derechos humanos' FIDH-OMCT, 20 January 2023, <https://www.fidh.org/es/region/americas/peru/peru-carta-abierta-a-la-fiscal-de-la-nacion-sobre-actos-de>.

criminal offences, which enable their use against HRDs as well as journalists.⁷² Under the Penal Code and the Law of Organised Crime, typical charges used to criminalise defenders include ‘rioting’, ‘obstruction of the functioning of public services’, ‘aggravated damages’, ‘violence and resistance to authority’, ‘extortion’, ‘kidnapping’, ‘usurpation’ and ‘criminal association to commit a crime’.⁷³ As registered by the CNDDHH, between 2002 and 2021 over 960 HRDs were criminalised in Peru.⁷⁴

Indigenous leaders, land and environmental defenders are among those most frequently targeted by prosecutions on trumped-up charges. One emblematic case is that of César Estrada Chuquilín, an Indigenous communicator and rights defender with the Network of Indigenous Communicators of Peru, who was sentenced to 10 years in prison for alleged ‘extortion’. The accusation related to the retention of a contractor’s pick-up truck in an incident where Estrada Chuquilín was not present. In his work, he had denounced forced evictions, violence and environmental damage linked to a mining megaproject, Conga in the Cajamarca region. The criminal proceedings against him were marked by due process violations and harassment of his family members. In March 2021, his appeal was dismissed by the Supreme Court and his sentence was confirmed.⁷⁵

Even when they do not lead to convictions, criminal investigations and proceedings are used to intimidate and stigmatise HRDs and discredit their work. Members of the campesino community of Muchik Santa Catalina de Chongoyape and the Save Chaparrí Defence Front group, which defend the conservation of the Chaparrí ecological reserve, were targeted by a smear campaign in local media after being accused of ‘environmental damage’ by the police in February 2021.⁷⁶ At least 30 community members were threatened with arrest during a police raid to investigate alleged environmental crimes and the community president was threatened with legal action.⁷⁷ A spokesperson for the Save Chaparrí Defence Front told Indigenous media outlet Wayka that since 2018, seven environmental defenders in the Lambayeque region have been prosecuted on similar accusations.⁷⁸

⁷² ‘Peru: Human rights defenders stigmatised, criminalised and repressed’, Observatory for the Protection of Human Rights Defenders, FIDH-OMCT, 26 June 2018, <https://www.fidh.org/en/issues/human-rights-defenders/peru-human-rights-defenders-stigmatised-criminalised-and-repressed>.

⁷³ Office of the High Commissioner for Human Rights (OHCHR), 3 February 2020, op. cit.

⁷⁴ FIDH, OMCT and CNDDHH, February 2021, op. cit.

⁷⁵ ‘Uso indebido del derecho penal en contra personas defensoras del medio ambiente en Peru’, UN Special Rapporteur on Human Rights Defenders, 13 July 2021, <https://srdefenders.org/uso-indebido-del-derecho-penal-en-contra-personas-defensoras-del-medio-ambiente-en-peru-comunicacion-conjunta>.

⁷⁶ ‘Criminalization against environmental defenders in Peru’, Front Line Defenders, 5 March 2021, <https://www.frontlinedefenders.org/en/case/criminalization-against-environmental-defenders-peru-0#case-update-id-13401>.

⁷⁷ ‘Peru: Environmental rights defenders and their communities subjected to continued harassment’, Front Line Defenders, 4 March 2021, https://www.frontlinedefenders.org/sites/default/files/peru_-_ua_-_chaparr_-_4_march_2021_eng.pdf.

⁷⁸ ‘Reserva de Chaparrí: Denuncian abuso de autoridad en operativo policial contra defensor ambiental’, Wayka, 19 January 2021, <https://wayka.pe/reserva-de-chaparr-denuncian-abuso-de-autoridad-en-operativo-policial-contra-defensor-ambiental>.

Labour rights

According to the International Trade Union Confederation (ITUC), workers' rights are systematically violated. Among the legal restrictions, workers in small- and medium-sized enterprises are effectively prevented from forming unions, and the law governing workers in public administration restricts the scope for collective bargaining, excluding pay-related issues.⁷⁹ Under the Collective Labour Relations Act, the Ministry of Labour has the power to end a strike if it poses a serious risk to the enterprise or the productive sector or if it could have serious consequences due to its size.⁸⁰

Union leaders and members are also targeted by harassment, attacks and killings. Jerson Henry Noé Suárez, a leader of the Union of Civil Construction Workers in Sullana, was shot and killed at his workplace by hired assassins. Two leaders of the Federation of Civil Construction Workers of Peru were killed between 2017 and 2020.⁸¹

Union members also face retaliation in the form of unfair dismissals. During the COVID-19 pandemic, 22 warehouse workers were dismissed by their employer after requesting health and safety protections. In a separate case, a union leader was dismissed with a letter accusing him of damaging the image of his employer by pointing out the lack of health and safety measures provided against COVID-19.⁸²

National framework for protection of HRDs

Article 12 of the UN Declaration on Human Rights Defenders mandates states to take the necessary measures to ensure the protection of HRDs. The ICCPR further guarantees freedoms of association, peaceful assembly and expression. In 2018, Peru also signed the Escazú Agreement, which contains specific provisions on the protection of environmental defenders and access to justice.⁸³ However, in October 2020 the Foreign Relations Commission of Congress shelved a proposal to ratify it, arguing that Peru already had regulation on several of the issues covered by the Agreement.⁸⁴

⁷⁹ Global Rights Index: 2021, ITUC, <https://www.globalrightsindex.org/en/2021/countries/per>.

⁸⁰ Collective Labour Relations Act, Decreto Supremo N° 010-2003-TR, [https://www2.congreso.gob.pe/sicr/cendocbib/con4_uibd.nsf/D8566D4EE46B526705257E2900588158/\\$FILE/1_DECRETO_SUPREMO_010_05_10_2003.pdf](https://www2.congreso.gob.pe/sicr/cendocbib/con4_uibd.nsf/D8566D4EE46B526705257E2900588158/$FILE/1_DECRETO_SUPREMO_010_05_10_2003.pdf).

⁸¹ 'Socavando Derechos', International Federation for Human Rights (FIDH), World Organisation Against Torture (OMCT) and National Human Rights Coordinator (CNDDHH), February 2021, <https://www.fidh.org/IMG/pdf/obs-peru-socavandoderechos-esp-250221-vf.pdf>.

⁸² ITUC, op cit.

⁸³ Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, <https://observatoriop10.cepal.org/en/treaties/regional-agreement-access-information-public-participation-and-justice-environmental>.

⁸⁴ 'Upheaval in Peru as president removed', CIVICUS Monitor, 19 November 2020, <https://monitor.civicus.org/updates/2020/11/19/upheaval-peru-president-removed>.

The 2018-2021 National Plan on Human Rights included HRDs among the groups in need of special protection. In this instrument, the Peruvian government set an objective to ‘guarantee the safe and equal exercise of the work of human rights defenders’ and established a goal to create a mechanism for their protection by 2021.⁸⁵ In the following years, several policy measures were taken toward this goal, including the creation of the first official register of complaints of attacks, and of guidelines for the Ombudsperson’s Office action in cases regarding HRDs.⁸⁶

In April 2019, the Ministry of Justice and Human Rights approved a Protocol to guarantee the protection of HRDs.⁸⁷ This Protocol was replaced in April 2021 by the creation of a Intersectoral Mechanism for the Protection of Human Rights Defenders.⁸⁸ The Mechanism is tasked with the implementation of measures to protect HRDs in high-risk situations, to prevent hostility against them and to promote the recognition of their work. In 2021, Peru adopted a National Action Plan on Business and Human Rights 2021-2025, which takes into account international guidelines in promoting protection and respect for human rights in business activities.⁸⁹

While these are crucial positive steps toward the promotion of an enabling environment for HRDs, their implementation has been impaired by practical challenges such as the lack of staff and resources. Local activists report that the newly established Intersectoral Mechanism is ineffective and understaffed. For instance, it has been unable to meet deadlines established for responding to urgent cases.⁹⁰

More effort is needed to disseminate information on the mechanism and provide access for those who need it, as well as to promote coordination among relevant authorities and a culturally sensitive approach to cases involving Indigenous defenders.⁹¹

⁸⁵ Plan Nacional de Derechos Humanos 2018-2021,

<https://cdn.www.gob.pe/uploads/document/file/1539318/PLAN-NACIONAL-2018-2021.pdf.pdf>.

⁸⁶ ‘Peru legislation enables disproportionate use of force by police’, CIVICUS Monitor, 22 July 2020,

<https://monitor.civicus.org/updates/2020/07/22/peru-legislation-enables-disproportionate-use-force-police>.

⁸⁷ ‘MINJUSDH aprueba Protocolo para garantizar la protección de personas defensoras de derechos humanos’, Ministerio de Justicia y Derechos Humanos, 25 April 2019, <https://www.gob.pe/institucion/minjus/noticias/27931-minjUSDH-aprueba-protocolo-para-garantizar-la-proteccion-de-personas-defensoras-de-derechos-humanos>.

⁸⁸ Decreto Supremo que crea el Mecanismo intersectorial para la protección de las personas defensoras de derechos humanos (No. 004-2021-JUS), <https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-crea-el-mecanismo-intersectorial-para-la-decreto-supremo-n-004-2021-jus-1946184-4>; Decreto Supremo que modifica el Decreto Supremo N° 004-2021-JUS (N° 002-2022-jus),

<https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-modifica-el-decreto-supremo-n-004-2021-decreto-supremo-n-002-2022-jus-2058369-1/>.

⁸⁹ National Action Plan On Business And Human Rights 2021-2025,

<https://cdn.www.gob.pe/uploads/document/file/2467575/National%20Action%20Plan%20on%20Business%20and%20Human%20Rights%202021-2025.pdf>.

⁹⁰ ‘Balance de la política de protección de personas defensoras en Perú 2021’, CNDDHH, March 2021,

<https://drive.google.com/file/d/1Qf6mzmNy4avWn2OXo67-okrlcuHcL6iy/view>.

⁹¹ ‘Los retos para proteger a los defensores de derechos humanos en el Perú’, OjoPúblico, 1 May 2022, <https://ojo-publico.com/3459/los-retos-para-proteger-defensores-de-derechos-humanos-en-el-peru>.

The Human Rights Committee should recommend that the Peru government:

- Strengthen the Intersectoral Mechanism for the Protection of HRDs, including by enhancing cooperation between relevant authorities and ensuring appropriate funding and other resources.
- Ratify the Escazú Agreement and implement activities outlined in the National Action Plan on Business and Human Rights to promote responsible business practices.
- Undertake a consolidated process of repeal or amendment of penal legislation that unwarrantedly restricts the legitimate work of HRDs, in line with the UN Declaration on Human Rights Defenders.
- Guarantee the effective and independent functioning of autonomous trade unions by removing proscriptions on the formulation of independent labour unions and undue limitations on the right to strike.
- Publicly condemn at the highest levels of government instances of harassment and intimidation of CSOs and activists, immediately and effectively investigate all cases of harassment and attacks against them and bring perpetrators to justice.
- Investigate extremist groups' actions to intimidate, harass and silence human rights organisations and defenders.
- Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable the more effective involvement of civil society in the preparation of law and policy.