

# Democracy under siege: The threats to the freedom of the press in Peru



MINISTERIO  
DE ASUNTOS EXTERIORES, UNIÓN EUROPEA  
Y COOPERACIÓN

SECRETARÍA DE ESTADO  
DE ASUNTOS EXTERIORES  
Y GLOBALES

DIRECCIÓN GENERAL DE NACIONES  
UNIDAS, ORGANISMOS INTERNACIONALES  
Y DERECHOS HUMANOS



FIBGAR

Fundación Internacional Baltasar Garzón

VOCES – Voces de la sociedad civil para una  
democracia más sustentable: diálogo entre Europa y  
América Latina

2024

*Voces de la sociedad civil para una democracia más sustentable: diálogo entre Europa y América Latina*

Fundación Internacional Baltasar Garzón (FIBGAR)

Todas las contribuciones pasaron un proceso de revisión y selección por parte de un Comité Científico. Esta publicación fue elaborada en el marco del Proyecto “Voces de la sociedad civil para una democracia más sustentable: diálogo entre Europa y América Latina” desarrollado por La Fundación Internacional Baltasar Garzón y cofinanciado por la Secretaría de Estado de Asuntos Exteriores Globales.

Corrección de estilo a cargo de Carmen Coletto Martínez.

Las opiniones y hechos consignados en cada artículo son de exclusiva responsabilidad de sus autores. FIBGAR no se hace responsable, en ningún caso, de la credibilidad y autenticidad de los trabajos. FIBGAR no se identifica necesariamente con el contenido, valoraciones y/o conclusiones de los trabajos publicados. Tampoco asumirá responsabilidad alguna por las consecuencias derivadas de la eventual utilización por terceros de la información y criterios incorporados a dichos trabajos.

## ÍNDICE

I.	Introduction .....	4
II.	The right to freedom of the press and its relation to democracy .....	5
III.	The threats to the freedom of the press in Peru .....	6
IV.	Conclusions .....	13
V.	References .....	15

# Democracy under siege: The threats to the freedom of the press in Peru

Renzo Díaz Giunta  
Organización Democrática Mundial por el Desarrollo

## I. Introduction

In Peru, the authoritarian tendencies of the people in power, and their political parties, have led to the progressive weakening of the democratic system, and an overall erosion of Peruvian democracy.

For a long time, journalists have acted as guardians of democracy exposing the crimes, abuses, and negligence committed by public officials. Hence, the role of the press has been fundamental to strengthen the fight against corruption in Peru.

Journalistic investigations have unveiled crimes and exposed mafias, some of the most prominent cases being the following: the case of the Vladivideos, Lava Jato, Petroaudios, the Orellana criminal enterprise, the Sodalicio, the White Collars of the Port, and Vacunagate.

Consequently, it can be affirmed that serious and responsible investigative journalism is one of the strongest allies of democracy, because it allows to scrutinize power. This scrutiny goes beyond the political power, and aims at its various manifestations like economic power, social power, media power, among others.

The press makes the powerful uncomfortable, due to the fact that they work to examine the actions and behaviors of those who exercise power. Thus, some of them are interested in limiting the freedom of the press, and use diverse mechanisms like violence, harassment or criminal prosecution to try to silence journalists.

Furthermore, there's been a rising trend in Peru of intolerance, hatred, and violence against journalists, specially, from politicians and other public officials. In the 2019 World Press Freedom Index<sup>1</sup> compiled by Reporters Without Borders, Peru was ranked in the 85<sup>th</sup> spot out of 180 countries.

On the contrary, in the 2023 World Press Freedom Index<sup>2</sup>, Peru was ranked in the 110<sup>th</sup> spot out of 180 countries. Clearly, the situation of freedom of the press in Peru has worsen dramatically, and it also reflects the process of erosion of democracy that is currently ongoing in the country.

Reporters Without Borders has expressed that their World Index “shows how hatred of journalists has degenerated into violence, contributing to an increase in fear. The number of countries regarded as safe, where journalists can work in complete security, continues to decline, while authoritarian regimes continue to tighten their grip on the media (2019)”.

---

<sup>1</sup> <https://www.rsf-es.org/clasificacion-mundial-2019-tabla-de-paises/>

<sup>2</sup> <https://www.rsf-es.org/clasificacion-mundial-de-la-libertad-de-prensa-rsf-2023-tabla-de-paises/>

Considering the freedom of the press is a constitutional right guaranteed by the Peruvian Constitution, and a human right recognized in other international human right treaties, these acts of hatred and violence against journalists constitute human rights violations. It is a critical situation that most of the political class in Peru have declared war on journalists, and the press.

## **II. The right to freedom of the press and its relation to democracy**

Only in democratic and free societies there are guarantees in place to ensure that people are truly free to express themselves without being in danger of being persecuted, attacked, censored, or criminalized for saying what they think. This is especially relevant in the case of the press.

For instance, while it is true that when journalists report on the news, express their ideas or opinions they are exercising their right to freedom of expression, they are also exercising their right to freedom of the press.

Freedom of expression is a human right that consists in the expression, dissemination or free propagation of a person's ideas or opinions by any means that he or she considers appropriate, from displaying posters with messages on public streets to the publication of texts, images, or videos on social media.

On the other hand, freedom of the press is a human right that is a manifestation of the right to freedom of expression and consists of the right to communicate and express on the media, as well as report news and publish information without being subjected to censorship or control from the Government.

Moreover, the European Court of Human Rights has ruled, in the case *Castells v. Spain*, the following: “Freedom of the press provides citizens with one of the best means of knowing and judging the ideas and attitudes of their leaders. It gives politicians in particular the opportunity to reflect and comment on the concerns of public opinion. It enables everyone to participate in the free play of political debate, which is essential to the notion of a democratic society” (1992, par. 43).

Although freedom of the press deserves to be respected and protected due to its nature as a human right, it is also one of the pillars of any democracy. Consequently, to advocate for the journalists and all the members of the press to have their freedom respected and protected is more than a human rights cause, because it's also a democratic one. If the press is censored or manipulated, the citizens will be fed the narrative of the Government, without anyone to verify its veracity.

Also, it's worth mentioning that the Declaration of Principles of Freedom of Expression, that was established by the Inter-American Commission on Human Rights, indicates under principle 5 that “Prior censorship, interference or direct or indirect pressure on any expression, opinion or information disseminated through any oral, written, artistic, visual or electronic media should be prohibited by law. Restrictions on the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the creation of

obstacles to the free flow of information, violate the right to freedom of expression” (2000).

Furthermore, in the landmark case *New York Times v. United States*, also known as the ‘Pentagon Papers’ case, the Supreme Court of United States ruled that “The press was to serve the governed, not the governors. The Government's power to censor the press was abolished so that the press would remain forever free to censure the Government. The press was protected so that it could bare the secrets of government and inform the people. Only a free and unrestrained press can effectively expose deception in government” (1971, p. 717).

There’s no doubt that a free press holds a fundamental role in every democratic society, since they can help shed light on diverse occurrences and information of public interest, without any interference from the Government. Without a free press, Governments control the flow of information to impose their own narratives, and censor perspectives, ideas and opinions that contradict them.

Such situation is contrary to the foundations of democracy itself. Thus, due to its strong relationship to democracy, the right to freedom of the press needs to be specially protected by every nation. There needs to be legislation that protects the right to freedom of the press, and that establishes the judicial processes and mechanisms to defend it from being violated it, whether by the Government, other organs of the State, or by private individuals.

### **III. The threats to the freedom of the press in Peru**

Due to the discoveries of corruption deeply rooted in the Peruvian State that investigative journalism has made, there are a lot of sinister interests of politicians, businesses and other actors of society that want to discredit journalists and silence them.

Hence, their actions have endangered freedom of the press in Peru and, in consequence, democracy itself. For instance, in Parliament, the legislative power of the congresspeople has been instrumentalized against journalists.

Also, a media conglomerate controls and owns most of the country’s media outlets, and legal actions taken to revert this situation at the courts have been unsuccessful so far. In addition, violence against journalists has risen exponentially, and there’s impunity. Plus, to the detriment of the citizens who have the right to be informed, criminalization and judicial harassment of journalism has increased.

#### **3.1. Legislative initiatives against journalists**

In Peru, journalists have continuously been allies to society and public interest, on account of all the times their journalistic reports and investigations have exposed corruption and other criminal activity within the sphere of the Government, and other organs of the State.

In addition, journalistic work in Peru has ignited the beginning of inquiries, disciplinary processes and criminal investigations against different politicians and public officials. Therefore, corrupt politicians and their political allies fear the power that the media has and hold a grudge against journalists.



In lieu of legislating in favor of the interest of the Peruvian people, most of the political parties and their congresspeople have entered into a political alliance through the establishment of a legislative agenda that provides them with the legal tools to subdue the media, and silence journalists that criticize them.

For instance, on August 19, 2022, congressman Segundo Montalvo of the political party Perú Libre presented the bill 02862/2022. This legislative initiative proposed to amend Articles 131 and 132 of Legislative Decree 635 (Criminal Code) and Article 1969 of Legislative Decree 295 (Civil Code) to increase the penalties for the crimes against honor of slander and defamation. In addition to making effective the payment of compensation for defamation that is made through the media, social networks, or websites.

Due to the presentation of this bill, the Institute of Democracy and Human Rights of the Pontifical Catholic University of Peru stated that “This legislative initiative evidently expresses an intention to limit freedom of the press now that, in the midst of a process of institutional demolition, journalism has been left as one of the last strongholds for the defense of democracy” (2023).

This bill was approved by a simple majority, on April 12, 2023, at the Justice and Human Rights Congressional Commission, whose presidency is held by Perú Libre, the same party as the author of the bill. Due to the nature of this legislative initiative to silence journalists and their work, it became known as the ‘Gag Law’.

On May 4, 2023, the bill 02862/2022 was submitted to a first vote at the Plenary of Congress and obtained the support of 69 congresspeople who voted in favor, while 27 voted against, and 3 abstained. Afterwards, on May 18, 2023, the second vote was scheduled for the ratification of the bill.

In view of the imminent danger of its approval, journalistic associations such as the National Association of Journalists of Peru<sup>3</sup>, the Peruvian Press Council<sup>4</sup> and the Press and Society Institute<sup>5</sup> manifested their rejection of this legislative initiative and expressed their position in favor of it being shelved and not being approved in a second vote.

After several postponements, this bill was submitted to a second vote on June 16, 2023, and did not obtain the support of the Congress of the Republic of Peru, since only 46 congressmen voted in favor, while 56 parliamentarians voted against, and 5 abstained.

These results at the Plenary of Congress were a triumph for the journalists, international organizations, and activists that were informing the population about the negative consequences of the approval of such bill and advocated in favor of it going to the archive. The congresspeople opted not to push forward this initiative that, at the beginning, gathered immense support across the diverse political parties in Congress.

---

<sup>3</sup><https://rpp.pe/politica/congreso/zuliana-lainez-sobre-proyecto-de-ley-mordaza-es-grave-porque-el-peru-es-un-pais-donde-los-periodistas-sufren-acoso-judicial-noticia-1483826?ref=rpp>

<sup>4</sup><https://gestion.pe/peru/consejo-de-prensa-pedira-al-ejecutivo-observar-ley-mordaza-congreso-de-la-republica-asociacion-nacional-de-periodistas-noticia/>

<sup>5</sup><https://www.ipys.org/noticias/experto-en-libertad-de-expresión-alerta-sobre-ley-que-podría-amenazar-la-prensa-en-el-perú>



Nevertheless, on December 20, 2023, Congress again strokes a blow to the press with the presentation of 2 new bills, from congressman Segundo Montalvo (06718/2023) and Segundo Quiroz (06714/2023), respectively, aimed at criminally prosecuting the members of the press for their journalistic work. This new attempt to silence journalists and criminalize their work reveals that the previous loss at the Plenary has not discouraged this authoritarian sector of Congress.

Moreover, due to the public outcry, 7 days later, congressman Segundo Quiroz withdrew his legislative initiative 06714/2023. Currently, in 2024, only the new bill 06718/2023, from congressman Segundo Montalvo, remains at Congress, and will follow the legislative procedure. Thus, the other 129 Peruvian congresspeople will decide whether this new attempt of silencing the press gets approved at the Plenary or not.

It's worth mentioning that, in accordance with the Inter-American standards, the reform that should be put forward by Congress is the decriminalization of the so-called crimes against honor, which include libel, defamation and slander. Such legal initiative, bill 01146/202, already exists and is yet to be debated, although it was presented on January 17, 2022, by congresspeople Flor Pablo, Susel Paredes and Edward Málaga.

Consequently, it is fundamental to abolish these laws that establish criminal punishments that could endanger the freedom of journalists. For that reason, the Inter-American Commission on Human Right has expressed "its concern about the application of the crime of defamation to persons who have made allegations or expressed critical opinions regarding those who hold or have held public office" (2012, p. 308).

### **3.2. Concentration of media ownership**

In 2013, journalists and media businesspeople Rosa María Palacios, Augusto Álvarez Rodrich, Luz Helguero, Mirko Lauer, Gustavo Mohme, Fernando Valencia, Enrique Zileri and Mario Saavedra filed an injunction lawsuit against Grupo El Comercio for the purchase of 54% of the shares of Epensa.

The reason behind the lawsuit is that the acquisition of Epensa, an enterprise that had the ownership of the newspapers Correo, Ojo, Ajá and El Bocón, represented a great danger to freedom of the press in Peru by concentrating most of the national press media in a single business group. Also, in April 2018, the acquisition of the remaining 36.44% of Epensa's shares was finalized, thus consolidating their control of the 100% of shares.

Regarding the freedom of the press, this right is a manifestation of the right to freedom of expression and revolves around the right of the people of expressing themselves freely in the media, and without fear of reprisals for their opinions or of being coerced. It is also the right of all journalists to freely exercise their profession in the search for the truth, and to inform the public.

An essential component of any democracy is the plurality of information, which comes from the existence of different media outlets, which express different points of view, and where journalists can disseminate their ideas and information in a free, plural, and independent manner.

Therefore, it is possible to affirm that a nation's democracy is weakened when the media is totally or mostly concentrated, as is the case in Peru, where El Comercio Group concentrates around 80% of the national print media.

Likewise, according to the Inter-American Court of Human Rights in its Advisory Opinion OC-5/85: "Freedom of expression may also be affected without the direct intervention of State action. Such a situation could arise, for example, when, as a result of the existence of monopolies or oligopolies in the ownership of the media, in practice, are established media that prevents the communication and circulation of ideas and opinions" (1985, par. 56).

Consequently, one of the greatest damages caused by a media monopoly, in a society and a region such as Latin America, revolves around the imposition of a single way of thinking or biased journalism, and the impediment of coverage of dissident ideas and opinions.

For example, journalists may even be limited or forced to avoid certain topics because they are uncomfortable for the owners and their friends or counterproductive to their political and commercial alliances. Faced with an almost absolute domination of the market, many have no choice but to follow orders and fall in line, rather than be banished by the conglomerate and enter a sort of "blacklist".

After a long 8-year wait, which violated the plaintiffs' right to a trial within a reasonable time, the judge of the Fourth Constitutional Court of the Superior Court of Justice of Lima, through Resolution 44 of June 24, 2021, declared the share purchase agreement null and void upon corroborating a high concentration of media in favor of El Comercio, since it contravened the Peruvian constitutional system.

It should be noted that, on the aforementioned judgment, the judge Juan Macedo ruled that: "All monopolistic ownership in communication markets seeks to mold public opinion according to a single point of view. This effect broadens the meaning of the collective or social dimension of freedom of expression; society's right to receive news from different points of view. The totalitarian and uniformizing aspiration to shape public opinion with a single point of view is presented as an intrinsic character of the media monopoly, whether state or privately owned; it is the objective and inevitable consequence of any monopoly on the quality of freedom of expression" (2021, par. 325).

An appeal was presented against this judgment, and, in October 2021, the Fourth Specialized Civil Chamber of the Superior Court of Justice of Lima declared the judgment null and void due identifying procedural flaws. Thus, the judges ruled that the case had to return to the Fourth Constitutional Court for a new ruling, without the alleged procedural flaws.

In July 2023, the judge of the Fourth Constitutional Court of the Superior Court of Justice of Lima ruled again in favor of the plaintiffs, thus declaring the share purchase agreement null and void, because it violated the rights to freedom of expression, and access to information.

That decision was appealed and, as of February 2024, its currently awaiting a new ruling by the Fourth Specialized Civil Chamber of the Superior Court of Justice of Lima. Meanwhile, a petition presented by the plaintiffs to the Inter-American Commission on

Human Rights was admitted in December 2022, and the prospect is that the case will be taken forth to the Inter-American Court of Human Rights.

### **3.3. Violence against journalists and impunity**

According to the Peruvian Press Council, “between December 2022 and February 2023, more than 170 journalists were assaulted, harassed, threatened, beaten and arbitrarily detained while covering nationwide protests unleashed following the attempted coup d’état of former President Pedro Castillo. As the Peruvian Press Council has been reporting, freedom of expression in Peru has been systematically eroding since 2016. Today it is in its worst situation since the return of democracy in 2000” (2023).

Also, during the nationwide protests, journalists and reporters from different national and local news outlets suffered from violent acts from the police forces. Although most of these abusive acts have been caught on camera and aired live on air, impunity has reigned supreme, since a year has passed and none of them have been criminally charged for attacking and violating the integrity of journalists.

Nowadays, the press in Peru is exposed to threats, harassment, and overall violence. For that reason, when covering protests or other events of public interest, most reporters tend to hide their journalistic credentials, so that they don’t become a target from violent groups, and police officers.

For instance, La Resistencia, a hate-group composed of radical individuals, have continuously harassed diverse journalists and media outlets. In February and June of 2023, the members of this radical group went to the address of journalist Rosa María Palacios to insult her and throw trash at her house, this was a clear attempt to silence her for being a dissident voice in the media.

Moreover, this hate-group, also visited the headquarters of IDL-Reporteros, award-winning news outlet (Latin American Prize of Investigative Journalism Javier Valdez) directed by journalist Gustavo Gorriti. La Resistencia has attacked IDL’s headquarters and harassed their journalists time and time again.

Although they are a collective known for their criminal radicalism, violence against the press, and vandalism, in July 2023 they had a meeting with Government officials at the Ministry of Culture, exhibiting their connections to politicians in power. Furthermore, this attacks to the press have not only been conducted in person, this radical group and other people go online to harass and insult journalists.

This surge in violence against journalists has escalated to a point in which it has also reached the cyberspace through trolling. Trolls are profiles or accounts on social media, of people whose identity is unknown to others. They are dedicated to spreading defamatory, strange, offensive, inflammatory publications, comments, and messages across the cyberspace.

Particularly, their profiles are characterized by a lack of a profile picture or having as avatar cartoons, animals, plants, figures, pictures of famous people or random pictures taken from Google. It should be noted that their main characteristic is anonymity, because the name they use is also false.

On the other hand, ‘troll’ profiles are used as instruments to comment insults on the publications of other cybernauts, spread lies, publish photos or videos edited in a mocking tone, as well as report accounts and profiles to silence those who think differently from them, and even expose the profiles of journalists with whom they disagree politically or ideologically in virtual groups where a sick and obsessive systematic cyberbullying is deployed.

In addition, it is common that, in Peru, the main authorities and political figures have trolls at their service, since when they are criticized or questioned, the trolls come out in their favor and act as their defenders in social media. Thus, projecting the fictitious image that they have popular support. Moreover, the journalists who criticize authorities and political figures or have exposed their misconducts are often cyber-attacked and harassed in social media by a horde of trolls clearly aimed at intimidating and silencing them.

For example, in August 2023, the media uncovered that Alejandro Soto, the recently elected president of the Peruvian Congress, used trolls managed by the staff of his congressional office to elevate his public image in social media, and to attack his political rivals and those who criticized him online.

The discovery made by journalists generated the starts of a criminal investigation against Alejandro Soto and his team for the crime of embezzlement of public funds, and exposed the lengths politicians go to silence their critics in social media. Although this case is just an example of a deeper problem of use of trolls across the internet, it ratifies the important role that the press has in informing the population and holding public officials accountable for their actions.

It's worth mentioning that there are other politicians and public officials who use these trolls to pursue their vendettas against journalists. In 2023, for instance, diverse journalists like Juliana Oxenford, Rosa María Palacios, Augusto Álvarez Rodrich, Federico Salazar, Mávila Huertas, Sol Carreño, and Gustavo Gorriti have reported that they have been the target of cyber-attacks on social media, and campaigns of harassment executed by trolls.

In sum, the trolls are an effective online weapon that politicians use to attack journalists. Furthermore, the journalistic work of the press makes them a target of the trolls, who enact revenge from anonymity, insulting and cyber-attacking anyone who gets in their way. Also, to propagate hate speech and incite violent acts, with impunity. The despicable work done by the trolls is an act of violence against journalists, by itself, and violates their right to freedom of the press.

### **3.4. Criminalization and judicial harassment of journalists**

The work of journalists makes it possible for the population to be informed of the actions and conducts of public officials. In their pursuit for transparency, journalists have faced legal obstacles, bureaucracy, backlash from influential people and politicians, and threats against their life.

However, the danger to themselves and their own families, the press in Peru has continued to push forward in spite of the obstacle that have presented themselves along the years, so that criminal organizations within the Government could be exposed, as well as corruption in the sphere of the State.

In a time of polarization in the country, politicians and other actors of society whose misconducts and crimes have been exposed on news outlets, have instrumentalized the Justice System to criminally persecute journalists for their work, so that they could be influenced to no longer report on them anymore, or retract what they have published before.

Moreover, there keep arising new situations that affect the freedom of the press in Peru, one of them is related to the unconstitutional surveillance that the Attorney General's Office ordered against the editor of La República, Cesar Romero, and the director of website Sudaca, Juan Carlos Tafur, that was revealed in December 2023.

Regarding the case, Inter-American Society of Press has said that they “repudiated the spying on journalists in Peru, ordered by the authority of the Attorney General’s Office with the intention of criminalizing the press... and affirmed that these practices jeopardize the work of the media and compromises their confidential informants and sources” (2023).

Moreover, the journalists Cesar Romero and Juan Carlos Tafur had a secret criminal investigation opened against them without them knowing and were followed by the police and put under surveillance. This situation happened between April 5 and November 23 of 2023, by the orders of the prosecutor Andy Rodriguez, and when the autonomous organ in charge of the criminal investigations was under the leadership of Patricia Benavides, the then-Attorney General who had trouble with the press.

As a high-level public officer, she was under the scrutiny of journalists, and she clashed with the press, because of the research diverse media outlets conducted about her administrative decisions at the helm of the institution, and other controversies like her missing thesis that she did not want to disclose, and her role in the dismissal of a prosecutor that was investigating her sister for allegedly accepting bribes from drug dealers.

The journalists Cesar Romero and Juan Carlos only found out about the investigations and the surveillance when they received a notification in November 27, where the prosecutor Cristhian Alfaro Caceres informed them that the investigation was archived due to the lack of any findings of criminal conducts.

Evidently, this situation shows the tendency for the people in power at the highest spheres of the State to criminalize the work of journalists. They want to spread, so that journalists stop reporting on their actions. Furthermore, this acts of extortion, and intimidation against journalists are clearly human rights violations.

On the other hand, in Peru, journalistic forms of expression are not the only ones that are being criminalized since artistic expression has also recently appeared on the radar of the Government. The latest victim of the criminalization of the press is the cartoonist Carlos Tovar, who works at the newspaper La República elaborating ironic cartoons with a social commentary, about politicians, and other well-known figures of Peruvian society.

On January 30, 2024, a cartoon of his got published at La República, where he was mocking the National Police of Peru due to the high number of its members who are

corrupt or have been apprehended committing other crimes. Although his cartoon was a form of artistic expression with a social commentary about the crisis at the police institution, Victor Zanabria, General Commander of the Police, sent him a notarized letter requesting a public rectification in 48 hours, or the National Police of Peru would pursue criminal action against him for elaborating the cartoon.

In addition, on his letter, Victor Zanabria alluded that this situation folded into the crime of defamation, contemplated on the article 132 of the Criminal Code of Peru. This situation reflects the instrumentalization of the so-called crimes against honor to silence journalists and critics of the Government at the press. A legal reform is needed, so that libel, defamation, and slander are no longer crimes that public officials can use as an excuse to threaten the work of the press.

Also, the Press and Society Institute, an organization of journalists, addressed this issue expressing that “it is a nonsense considering that the caricature contains a strong critical content to a public institution that is highly questioned by objective and verifiable facts. IPYS declares its rejection of the police authority's announcement, considering it a threat to freedom of expression” (2024).

Evidently, Carlos Tovar has publicly stated that he won't be silenced nor back down on elaborating and publishing his signature cartoons with social commentary. Most likely, the National Police will take him to court for his cartoon with the intention on getting him convicted. The implications of this case, from a criminal law perspective are fairly simple, Carlos Tovar has not broken the law, his cartoon falls under the protection of freedom of expression. Thus, the judge shall shelve the case due to a lack of criminal conduct.

Furthermore, considering the rising violence against journalists, the harassment in social media, the criminalization of journalists, the case of the journalists Cesar Romero and Juan Carlos, as well as the case of cartoonist Carlos Tovar, there's no doubt that Peru has become a hostile territory for the press.

On that topic, the World Association of News Publishers has said that “denounces the legal harassment of La República and calls on the institutions of state to respect legislation protecting freedom of the press. Furthermore, the organisation reminds the Peruvian government that it is the responsibility of the state to ensure the safety and protection of all citizens, including journalists. It calls for a full investigation into all threats of violence or intimidation – online or off – made against La República and its journalists, and for the perpetrators to be brought to justice” (2024).

#### **IV. Conclusions**

In sum, in their search for the truth, journalists in Peru face plenty of challenges and obstacles due to the current situation of erosion of democracy. Nevertheless, is in this critical context for Peru, when the country needs the press the most, to expose corruption and the corrupt, as well as to provide information to the population.

Loewenstein has pointed out that “the recognition and observance of fundamental freedoms separate the political system of constitutional democracy from autocracy. Based



on the concentration of power, autocracy cannot tolerate autonomous zones of individual self-determination, because these would interfere with the formation of the state will from above” (1986, p. 392).

Moreover, the continued presentation of bills at Congress aimed at interfering with the job of journalists, criminalizing the press, and weakening the investigative journalism in Peru, could culminate in the annihilation of its already fading and struggling democracy. The only path forward for legislators is to abstain from insisting on implementing unconstitutional legal reforms that violate the right to the freedom of the press.

On the other hand, the concentration of media ownership distances us from democratic channels and threatens the free market. In addition, the judicial victory at the first judicial instance reflects that the concentration of media ownership, by itself, is a systematic violation of the rights to freedom of expression, freedom of the press and access to information of all Peruvians.

Although, at a national level, the future looks grim for the case, the Inter-American System of Human Rights, represents a light in the darkness, because the Inter-American standards on freedom of the press, and the case law of the Inter-American Court suggest that the ruling will be favorable to the plaintiffs. The case has all the elements to become a leading case regarding media concentration and freedom of the press in the Americas.

Regarding the rising violence against journalists in Peru, the State has a responsibility to ensure justice for the journalists that have been threatened, harassed, and attacked. The violent actions of private individuals, police officers or other public servants must be prosecuted, and the people responsible for these crimes have to be convicted. The current situation of impunity needs to end.

Also, regarding the troll activity across the cyberspace, the organization of journalists Press and Society Institute has indicated that “the main target of the attack is journalists linked to the dissemination of denunciations against irregular activities in Congress and acts of corruption by politicians. For IPYS, the volume and sustainability of the harassment in networks reveals an activity financed by interest groups that intervene in the usually aggressive and emotional debate in social media” (2023).

There are clear interests in undermining the role of the press, organized crimes and corrupt politicians are usually behind these campaigns of harassment and trolling. Also, they instrumentalize the Justice System to silence journalists, that’s why it is fundamental that the so-called crimes against honor, which include libel, defamation and slander are eliminated from the Criminal Code, and are no longer considered criminal offenses. Only then can journalists work with the guarantee that they won’t be subjected to countless trials, and the criminalization of their work.

In conclusion, the erosion of democracy in Peru has reached its breaking point. Without any clear political leadership on the horizon, the fear of most Peruvians is that the mafias that have taken over the political parties will destroy everything in their path to fulfill their personal interests. While is true that not all the media outlets in Peru are impartial, especially the mainstream media on TV and print, because there are clear economic and political interests reflected in their coverage, the future of the nation would be grimmer without a free press.



Furthermore, to welcome dissident ideas and opinions across different media outlets, makes it possible for the existence of plurality of information in the country. The right to freedom of the press is a human right guaranteed by the Peruvian Constitution, and diverse international treaties of human rights that Peru has ratified, therefore, the obligation to promote, respect and protect such right is legally binding for everyone.

The situations described in this publication showcases the critical status of democracy in Peru. The press has fought valiantly against the efforts of the sinister forces that want to make them stop their search for the truth, but the Peruvian society, as a whole, must remain vigilant, and defend the freedom of the press. Democracies die in silence, and we shall never stay silent.

## V. References

Diaz Giunta, R. (2022). El Derecho a la Libertad de Expresión y las Redes Sociales. Diaz Giunta, R., & Roel Alva, L. (Coordinators). *Athina Edición Especial Bicentenario*, (15). Lima: Athina.

Diaz Giunta, R. (2021). *Sin cadenas ni mordaza: Prensa libre*. Retrieved from: <https://agnitio.pe/articulo-de-blogger/sin-cadenas-ni-mordaza-prensa-libre/>.

European Court of Human Rights. (1992). *Case of Castells v. Spain*.

Fourth Constitutional Court of the Superior Court of Justice of Lima. (2021). *Resolution 44 of the Case 35583-2013-55-1801-JR-CI-04*.

Gestión. (2023). *Consejo de Prensa pedirá al Ejecutivo observar 'ley mordaza'*. Retrieved from: <https://gestion.pe/peru/consejo-de-prensa-pedira-al-ejecutivo-observar-ley-mordaza-congreso-de-la-republica-asociacion-nacional-de-periodistas-noticia/>.

Institute of Democracy and Human Rights of the Pontifical Catholic University of Peru. (2023). *Otro intento de amordazar a la prensa*. Retrieved from: <https://idehpucp.pucp.edu.pe/editorial/editorial-otro-intento-de-amordazar-a-la-prensa/>.

Institute Press and Society. (2023). *Experto en libertad de expresión alerta sobre ley que podría amenazar la prensa en el Perú*. Retrieved from: <https://www.ipys.org/noticias/experto-en-libertad-de-expresion-alerta-sobre-ley-que-podria-amenazar-la-prensa-en-el-peru>.

Institute Press and Society. (2023). *Perú: grupos antiprensa intensifican acoso a periodistas en redes sociales*. Retrieved from: <https://www.ipys.org/noticias/libertad-de-expresion/peru-grupos-antiprensa-intensifican-acoso-a-periodistas-en-redes-sociales-1>.

Institute Press and Society. (2024). *Perú: Policía Nacional anuncia acciones legales contra La República por publicar una caricatura crítica a la institución*. Retrieved from: <https://ipys.org/alertas/peru-policia-nacional-anuncia-acciones-legales-contra-la-republica-por-publicar-una>.

Inter-American Commission on Human Rights. (2000). *Declaration of Principles of Freedom of Expression*.

Inter-American Commission on Human Rights. (2012). *Informe Anual de la Relatoría Especial para la Libertad de Expresión*. Washington D.C: OAS Publishing.

Inter-American Commission on Human Rights. (2023). *Special Report on the Situation of Freedom of Expression in Peru*. Washington D.C: OAS Publishing.

Inter-American Court of Human Rights. (1985). *Advisory Opinion OC-5/85*.

Inter-American Society of the Press. (2023). *La SIP repudia espionaje de periodistas en Perú*. Retrieved from: <https://www.sipiapa.org/notas/1216340-la-sip-repudia-espionaje-periodistas-peru>.

Loewenstein, K. (1986). *Teoría de la Constitución*. Barcelona: Editorial Ariel.

Reporters Without Borders. (2019). *2019 World Press Freedom Index – A cycle of fear*. Retrieved from: <https://rsf.org/en/2019-world-press-freedom-index-cycle-fear>.

Reporters Without Borders. (2019). *Clasificación Mundial de la Libertad de Prensa 2019*. Retrieved from: <https://www.rsf-es.org/clasificacion-mundial-2019-tabla-de-paises/>.

Reporters Without Borders. (2023). *Clasificación Mundial de la Libertad de Prensa 2023*. Retrieved from: <https://www.rsf-es.org/clasificacion-mundial-de-la-libertad-de-prensa-rsf-2023-tabla-de-paises/>.

RPP. (2023). *Zuliana Lainez sobre proyecto de 'Ley Mordaza': Es grave porque el Perú es un país donde los periodistas sufren acoso judicial*. Retrieved from: <https://rpp.pe/politica/congreso/zuliana-lainez-sobre-proyecto-de-ley-mordaza-es-grave-porque-el-peru-es-un-pais-donde-los-periodistas-sufren-acoso-judicial-noticia-1483826?ref=rpp>.

Peruvian Press Council. (2023). *Informe 2023-I de libertad de expresión en el Perú para la Sociedad Interamericana de Prensa*. Retrieved from: <http://consejoprensaperuana.org.pe/opinion/informe-2023-i-de-libertad-de-expresion-en-el-peru-para-la-sociedad-interamericana-de-prensa/>.

Supreme Court of United States. (1971). *New York Times v. United States*.

World Association of News Publishers. (2014). *World's press condemns threats and legal harassment of cartoonist Carlin and La República in Peru*. Retrieved from: <https://wan-iffra.org/2024/02/worlds-press-condemns-threats-and-legal-harassment-of-cartoonist-carlin-and-news-organisation-la-republica-in-peru/>.

