



PERU

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Contribution by Reporters Without Borders (RSF), a non-governmental organization with special consultative status, on freedom of the media and information in Peru

1. The Paris-based NGO Reporters Without Borders (RSF) promotes media freedom worldwide since 1985, and has consultative status with the United Nations. Its national sections, its bureaux in ten cities and its network of correspondents in 130 countries enable it to closely monitor freedom of information and expression all over the world.
2. In 2015, RSF opened a new regional bureau for Latin America in the Brazilian city of Rio de Janeiro.
3. Peru is ranked 84 out of 180 countries in RSF's 2016 World Press Freedom Index.
4. Prepared for the third cycle of Peru's Universal Periodic Review, this contribution offers recommendations on freedom of information and expression, especially as regards the issues presented above.
5. The main threats come from the country's criminal defamation laws, which have in the past seen journalists jailed for writing serious stories in good faith; violence and the threat of violence from criminals, sometimes linked to elected officials; and the heavy media ownership concentration that negatively affects pluralism.

1. Violence against journalists and media personnel

6. Reports of threats, physical attacks and even murders of media personnel are not uncommon in Peru. The orchestrators of the attacks tend to come from either organized crime groups or locally elected officials, typically those accused by journalists of corruption. Journalists working for small provincial media are particularly vulnerable.

7. On 3 March, the Peruvian police announced they had discovered the dismembered and partially burnt body of missing journalist José Yactayo Rodríguez in a rural area outside of the capital, Lima. Yactayo had been reported missing a week earlier, after he failed to return from a production meeting. During the 1990's Yactayo was an editor and producer for two of the most important broadcast news shows in the country, América Televisión and Frecuencia Latina. For the past 12 years he had worked at an independent production company. While it's not clear if Yactayo's murder is connected to his journalistic activity, friends said his disappearance was part of a "sinister game", noting that his cell phone had been used several times during the week before the facts and an unknown voice had replied to voicemail messages.

8. On 11 February, journalist Julio César Moisés Mesco was also reported missing. Several weeks later his body was found by the police. He worked for the municipality of Ica, southern Peru, as a communication officer.

9. On 3 February, unidentified assailants beat and tried to cut off journalist Marco Bonifacio Sánchez's tongue as he walked home in the northern Peruvian town of Cajamarca. Bonifacio is the host of the radio and television program "El Canillita," broadcast on Turbo Mix Radio y Televisión and, according to reports, he has been attacked on at least four previous occasions during the last three years.

10. Last year, on 20 November, journalist Hernán Choquepata Ordóñez, was shot in the head by at least one gunman who stormed into Radio La Ribereña as he was presenting a music programme. The presenter, who was alone in the studio at the time, died while being rushed to hospital. In a programme called "Habla el Pueblo," Ordóñez interviewed local residents who often complained about the region's elected authorities. Ordóñez himself was also often openly critical of local leaders during his broadcasts, lambasting the mayors of Camaná and the nearby town of Mariscal Cáceres the week before his murder.

2. Defamation laws and prosecution of journalists

11. Criminal defamation remains on the Peruvian Criminal Code, with a maximum sentence of three years, and is generally enforced. Journalists who are convicted of this crime are given suspended jail sentences, fined, and required to issue a public apology and retraction. This also appears to be a more pressing issue in the provinces, with national politicians based in Lima usually wary of prosecuting critics. Nevertheless, the mere existence of this offence has a potentially chilling effect on journalists' ability to scrutinize public institutions and officials, as well as private individuals and companies suspected of wrongdoing.

12. In September 2016, Ronald Daniel Ormeño, a local newspaper editor in Chimbote had his suspended sentence invoked after he was unable to pay compensation to a local university administrator he had accused of corruption; he was only released from jail after supporters raised the funds to pay the compensation.

13. In April 2016, Fernando Valencia Osorio, the former editor of the daily *Diario 16*, was given a 20-month suspended jail sentence on 18 April and was ordered to pay the equivalent of 27,000 euros in damages to former President Alan García over a front-page story in *Diario 16* in 2014. The cover story identified Alan García (whose past administrations have been mixed up in several high profile corruption scandals although he himself has never been convicted of any crime) as the target of a declaration from sitting president Ollanta Humala that: “Thieves belong in jail, not in power.” Humala’s comments were widely understood within Peru to refer to García, who nevertheless then targeted the editor for publishing a sitting head-of-state’s public remarks.

14. The defamation conviction against Fernando Valencia was later overturned by the Fourth Criminal Court of Lima's in August, 2016.

15. Separately, also in April 2016, the then outgoing Humala administration also sought to use national security legislation to prosecute journalists at current affairs TV program *Panorama*, including presenter Rosana Cueva and reporter Karina Novoa. Then defense minister Jakke Valakivi accused them of divulging military secrets during a report exposing corruption within the armed forces. In fact, all they had broadcast were details of forged expense receipts used to justify inflated alleged payments to informers in the VRAE, an Andean valley dominated by cocaine smugglers and remnants of the Shining Path terrorist group.

16. During the last years, Reporters Without Borders (RSF) has constantly denounced the criminal prosecutions of journalists in the country, a tool often used by public authorities as a mean to deter closer scrutiny of their wrongdoing and retaliation against the media. The National Association of Journalists (ANP) has stated that there were around one hundred cases of prosecution of journalists under defamation laws during the last five years.

3. Concentrated media ownership

17. The ownership of Peruvian media are unusually concentrated, to such a degree that it threatens freedom of speech within the country by stifling the plurality and diversity of voices necessary in a democracy. This concentration covers circulation, audience and advertising revenues, and is particularly pronounced in the print and digital media.

18. One group, the *El Comercio* group, owns numerous national newspapers, online portals and one cable TV station. Its flagship outlet is a daily newspaper of the same name that is sometimes regarded as Peru’s newspaper of record. The group is estimated to account for 80% of all newspaper circulation in the country and 68% of online readership. It also earns 60% of the revenue of Peru’s eight largest media companies. Separately, national free-to-air TV is dominated by three companies, *América Televisión*, *Latina* and *ATV*, which control 57% of the national television audience. All these figures come from a study made by RSF in 2016 - see *Media Ownership Monitor (MOM) Project*.

19. There have been attempts to redress this heavy market concentration, but, so far to no avail. El Comercio's high level of dominance on the national news media market is being challenged at the Inter-American Commission of Human Rights in a petition brought by eight prominent Peruvian journalists. They lodged their complaint in September 2015 after failing to get any kind of ruling from the Peruvian justice system since first filing a request for an "amparo" (a protective measure) with Peruvian courts in November 2013 against El Comercio's acquisition of rival media group EPENSA.

20. The eight journalists regard El Comercio's heavy concentration of market share as a threat to media pluralism and freedom of expression as protected under Article 61 of the Peruvian Constitution, which prohibits monopolistic behavior and references the media in particular as requiring a plurality of ownership. El Comercio is broadly conservative and has made recent efforts to improve journalist standards after its political coverage was widely criticized in the 2011 presidential election as heavily biased towards one candidate, including by Nobel Laureate Mario Vargas Llosa, who pulled his column from the paper in protest. The IACHR has yet to give its decision on the petition.

Recommendations of RSF to Peruvian authorities :

21. Provide more human and financial resources to set up a Special Prosecutor's Unit tasked with handling attacks against journalists within the national prosecutor's office, to ensure that any and all acts or threats of violence against journalists are thoroughly investigated and that the alleged perpetrators are put on trial as swiftly as possible.

22. Provide specific freedom of expression trainings for the judiciary regarding the international norms in order to avoid court rulings that undercut media freedom

23. Decriminalize defamation laws, ensuring that defamation suits are purely civil disputes. Journalists should never face criminal liability for what they write, broadcast, or publish.

24. Consider ways to ensure a more plural media landscape by diversifying ownership, in accordance with Article 61 of the Peruvian Constitution.

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