



PERU: GROWING AUTHORITARIANISM, EROSION OF RIGHTS

Executive Summary

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Asociación Pro Derechos Humanos



Centro de Derechos y Desarrollo

PERÚ

EQUIDAD

Centro de Políticas Públicas y Derechos Humanos

FIDH and its member organisations in Peru, APRODEH, Perú-Equidad and CEDAL, present a note on the process of democratic deterioration and capture of institutions by a conservative, anti-rights political project, which has resulted in the current crisis in Peru that goes beyond the repression initiated in December 2022. It aims to denounce the actions of an authoritarian parliament and to alert the international community to the serious consequences for the rule of law and political stability in Peru.

The political crisis in Peru, which began in 2016, has led to a succession of five presidents and two Congresses, one in 2019 and the other in January 2020. The immediate cause of the political instability from 2016 onwards, was the refusal of Keiko Fujimori, who had already lost elections in 2011, and her party, *Fuerza Popular*, to recognise the victory of her opponent. This was accompanied by a campaign of destabilisation drawing on the party's majority in Congress. Keiko is the daughter and political heir of dictator Alberto Fujimori, convicted of crimes against humanity in 2009 who held power in Peru for 10 years. In recent years, the intensification of political disputes, the corruption affecting all levels of government and almost the entire political spectrum, and the impact of the COVID-19 pandemic (Peru had the highest number of deaths as a percentage of the population) have exacerbated socio-economic vulnerability, as well as the sense of social disorder and insecurity.

During the 2021 presidential contest, Keiko Fujimori, with the support of economic powers and the media, mounted a campaign attacking Pedro Castillo, a schoolteacher, highlighting his limited political experience and his "radicalism" (based on his trade union and peasant background). The campaign appealed to racist and exclusionary prejudices that had not been openly expressed in the country in recent decades, but which are structural in Peruvian society, whose history has been marked by ethnic, racial and socio-economic discrimination. Tensions increased in response to the outcome of the second round. The coalition of the right and extreme right filed 887 challenges to the results and openly accused the electoral authorities of fraud, fostering an atmosphere of mistrust, harassment and attacks on institutions. Pedro Castillo won by a small margin of 44,263 votes.

From the outset, improvisation was a characteristic feature of Pedro Castillo's government. With a weak, incoherent cabinet that included individuals whose fitness for the post was questionable, Pedro Castillo faced a hostile Congress from the start. In the space of sixteen months, there were five successive cabinets that faced nine censure processes against some of their members. Over that period, seventy-eight individuals held ministerial posts for a total of nineteen ministries. Despite Castillo's attempts to advance some important social reforms, such as the university reform and the labour reform, the constant attacks by Congress against him – which in under a year and a half into his mandate, subjected him to three attempts at presidential vacancy, two attempts at suspension and three constitutional complaints – left the population with the impression that the errors and limitations in his administration were mainly due to the opposition, which through Congress "would not let him govern".

Thus, threatened by a third vacancy motion, Pedro Castillo attempted a coup d'état against his own regime on 7 December 2022. On the same day and without any support, he was quickly removed from office by Congress and replaced by his Vice-President Dina Boluarte. The new president, who was the subject of several complaints that had been shelved by Congress, instead of requesting an early election as had been presumed, announced that she would stay in office until 2026, i.e., until the end of the presidential term. The congressional majority thus guaranteed a "constitutional" succession to Castillo and ruled out early elections to ensure that she would remain in power.

In the weeks that followed, public rejection and indignation about events translated into massive and historic mobilisations of the population, demanding "they must all go", particularly in the south of the country, in the areas that have historically suffered the greatest exclusion, with a majority indigenous and peasant population, and where Pedro Castillo had obtained large percentages of the vote.

The state's response to the massive unrest was violent repression that left sixty-seven people dead, forty-nine of them in the context of demonstrations. In the region of Apurímac, disproportionate repression resulted in six deaths. In Ayacucho, ten people were killed in one day on 15 December 2022. And in Puno, the worst massacre took place with eighteen people killed. Some of the murders may amount to extrajudicial executions as they were caused by weapons belonging to the armed forces, with a pattern of injuries involving shots above the torso. These serious acts that have been widely reported and denounced by human rights organisations must be investigated and tried by independent and impartial tribunals, the perpetrators must be punished, and the victims must receive reparation.

The brutality of the repressive response has been ignored and even endorsed by the authorities in power.

Moves towards an authoritarian state

This note seeks to demonstrate that the current political crisis is due to a conservative, authoritarian political and ideological project that has been unduly destabilising state institutions and that, during the last year, led by Congress, has stepped up efforts to co-opt other state powers and to reverse social and citizen gains in the area of human rights.

- Capture of the Constitutional Court. In May 2022, Congress elected judges who are not only conservative, but also lack adequate academic and legal credentials, who several months later issued a ruling unduly favouring Congress over the judiciary. The ruling nullifies the possibility for the judiciary to exercise constitutional control over the acts of Congress, altering the balance of powers by placing Congress above the other branches of government and the Constitution itself.
- Intervention by electoral bodies. The aforementioned ruling of the Constitutional Court in February 2023 also approved the modification by Congress of the constitutional rules in order to allow members of the National Electoral Board (*Jurado Nacional de Elecciones* - JNE) and the heads of the National Office for Electoral Processes (*Oficina Nacional de Procesos Electorales* - ONPE) and the National Registry of Identification and Civil Status (*Registro Nacional de Identificación y Estado Civil* - RENIEC) to be the subject of constitutional charges (*acusación constitucional*) before the Congress of the Republic. The aim was to remove judge Jorge Salas, president of the JNE, who, having endorsed the legality of the 2021 elections, became a target of the opposition, which now seeks his dismissal at all costs in order to control the electoral authorities. The stability in office of the members of the electoral authorities and their independence are fundamental to guarantee the exercise of political rights and free elections in accordance with the procedures set out in law.
- Appointment of an Ombudsperson, in May 2023, without the necessary qualifications for the post in a highly criticised process and in disregard of the law itself, enabling the capture of one of the institutions with the longest track record of independence and legitimacy. Moreover, this new Ombudsperson's Office, loyal to the parliamentary majority, will be responsible for conducting the selection process in 2024 of the members of the National Justice Board (*Junta Nacional de Justicia* - JNJ), the body that appoints, evaluates and dismisses judges and prosecutors.

Other serious restrictions on political oversight that have consolidated the authoritarian parliamentarianism denounced in this note include:

- a. **Restriction of the "vote of no confidence"** by the Law of October 2021, leaving its application vague, by providing that this mechanism, which allowed Congress to be dissolved, may not be used in matters that affect the "procedures and competences" of Congress, i.e., in any circumstances.
- b. **Annulment of the citizens' right to a referendum on constitutional issues**: the January 2021 Law makes the holding of a referendum conditional on prior approval by Congress.
- c. **Proposal to re-establish a bicameral legislature** in July 2022, with the intention of turning the Senate into a chamber of notables and the approval of the re-election of members of congress.
- d. **Law passed by Congress in June 2022**, to ensure the continuity and support of the military command, which guarantees continuity in post for two years, extendable for one year, for commanders-in-chief of the armed forces, with very strict grounds for dismissal of high-ranking officers.

The congressional majority is also characterised by its actions against human rights, in particular against sexual and reproductive rights and the adoption of a gender-based approach. In a highly concerning development, a bill proposed by the pro-Fujimori faction, which states that life begins at conception and not at birth, and which seeks to prevent girls and women who are victims of rape from accessing therapeutic abortion, allowed in Peru since 1924, has just been approved. Other relevant initiatives include the approval of a bill changing the name of the Ministry of Women to the Ministry of the Family; the approval of a law that includes parents' associations in the drafting of documents and other materials, particularly those on sex education and related issues; and most recently, the proposal to denounce the American Convention on Human Rights. In addition, the Supreme Court has ruled that social protest is not a fundamental right. These actions have empowered anti-rights movements and represent a serious regression for rights in the country.

The role played by the Attorney General of the Nation is of concern. Her competence for the position is questionable, as she has not provided proof of her master's and doctoral theses, as required, and she has demonstrated her political partiality, for example by dedicating herself, since taking office, to preparing constitutional charges (*acusación constitucional*) against former president Castillo, neglecting other cases already filed. Furthermore, since the wave of repression, rather than investigating the deaths and possible cases of extrajudicial executions and serious human rights violations and the perpetrators, the Attorney General's Office has turned its attention to the persecution and prosecution of protesting citizens, particularly the leaders of the organisations involved. In a serious move, it has considerably weakened the Human Rights Prosecutor's Office (*Fiscalía de Derechos Humanos*) in order to prioritise the Prosecutor's Office for Terrorist Crimes (*Fiscalía sobre delitos de terrorismo*).

The objective of taking over Peru's judiciary is clear. The election of presidents of the High Courts and the Supreme Court at the end of last year failed to respect international standards of transparency and national provisions on the matter. In addition, the majority of the Special Commission that will select the members of the National Justice Board (JNJ, the body in charge of managing the careers of judges and prosecutors in the country) in 2024, is composed of people whose appointments have been challenged and who lead entities co-opted by the conservative, anti-rights political forces in Congress (see above).

Against this serious backdrop, there has been an increase in social protest and the demands of citizens who do not feel represented and who call for respect for their rights. In response, there has been full-scale deployment not only of the violence of weapons, but also of the violence of norms and discourse. Such discourse has been manifested through the so-called "*terruqueo*" campaigns, i.e., stigmatisation of those who criticise the government by labelling them terrorists.

The organisations presenting this note conclude that there is a clear process of capture of democratic institutions in Peru by an authoritarian, ultra-conservative and anti-rights Congress, now allied with the government of Dina Boluarte. The dominant tendency of these powers to reverse the gains made with respect to various rights has fuelled and will continue to foster and increase the rejection of both institutions. Furthermore, it is highly likely that the attempt to intervene in the other branches of government and the growing economic crisis will have an impact on the development of citizen mobilisations and increase destabilisation in the country. The "Third Takeover of Lima" (*Tercera Toma de Lima*), planned to take place in the coming days, is an example of this.

There is no viable political solution in sight within the short term. The demands of the mobilised population go to the foundational pillars of the ruling regime: the resignation of Dina Boluarte, the shutting down of Congress, the call for new elections, the call for a Constituent Assembly. As long as the dominant coalition remains firm around the president and Congress, these demands are not viable, unless the economic impacts of the crisis continue or increase. A viable political solution will have to be found in the medium term, will require the maturing of proposals and actors that go beyond the current situation, and will need the support of the international community.

In this context, the human rights movement will continue to monitor and denounce human rights violations and the excesses of the public authorities, as well as to support the victims to pursue justice and reparation, and to seek the punishment of those responsible for serious human rights violations and possible international crimes committed in recent months.

Our organisations make the following recommendations:

To the Peruvian state:

- Give effect to the demand of the majority of citizens for general elections to be held without delay.
- Guarantee the autonomy and independence of all branches of the Peruvian state, in particular the electoral authorities and the administration of justice.
- End the stigmatisation and criminalisation of social protest and human rights organisations.
- Guarantee women's rights and a gender-based approach in accordance with international human rights conventions ratified by the Peruvian state. Ensure in particular that girls and women who are victims of rape have access to therapeutic abortion.
- Guarantee the integrity and security of Judge Jorge Luis Salas Arenas, President of the National Electoral Board, as well as other electoral authorities.
- Refrain from denouncing the American Convention on Human Rights, which is an essential guarantee for the defence of the rule of law and human rights in the region.
- Guarantee conditions for the exercise of social protest and listen to the demands of the population, who are weary of exclusion, repression and corruption.
- Investigate and prosecute serious human rights violations and possible extrajudicial executions committed in recent months in various regions of the country.

To the international community:

- Establish an international monitoring mechanism on the crisis in Peru to promote dialogue between the various actors in order to establish a timetable to end the crisis with full respect for democratic guarantees and human rights.
- Make the conclusion of trade agreements with Peru, and in particular its accession to the Organisation for Economic Cooperation and Development (OECD), conditional on full respect for guarantees of democracy: separation of powers, substantial progress in investigations into human rights violations in the context of the repression, autonomy of public institutions, effective sanctions for public and private corruption, and respect for human rights.
- Continue to support independent civil society and human rights organisations so that they can continue their work.
- Monitor election processes for high-level state officials in Peru and denounce any anti-democratic practices observed.

Keep your eyes open

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Establishing the facts - Investigative and trial observation missions

Supporting civil society - Training and exchange

Mobilizing the international community - Advocacy before intergovernmental bodies

Informing and reporting - Mobilizing public opinion

For FIDH, transforming societies relies on the work of local actors.

The Worldwide Movement for Human Rights acts at national, regional and international levels in support of its member and partner organizations to address human rights abuses and consolidate democratic processes. Its work is directed at States and those in power, such as armed opposition groups and multinational corporations.

Its primary beneficiaries are national human rights organizations who are members of the Movement, and through them, the victims of human rights violations. FIDH also cooperates with other local partner organizations and actors of change.

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FIDH is an
international human rights
NGO
federating **188** organizations
from **116** countries

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ABOUT FIDH

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

A broad mandate

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

A universal movement

FIDH was established in 1922, and today unites 188 member organizations in 116 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

An independent organization

Like its member organizations, FIDH is not linked to any party or religion and is independent of all governments.