



Lima - Peru, January 28th, 2025

Dear members,

## **Oversight Board**

### **Subject:** Content Targeting Human Rights Defender in Peru

Hiperderecho is a Peruvian non-profit civil association dedicated to investigate and promote respect for human rights in digital environments, formed by an interdisciplinary team. As part of our work, we study all legislative and public policy initiatives that may impact the exercise of rights and freedoms on the internet.

### **1. The socio-political context in Peru and the risks to the security and freedom of expression of human rights defenders, journalists and civil society organizations**

The socio-political context in Peru is complex and is characterized by a series of political crises, social and economic tensions. After the failed attempt to close the Congress and subsequent arrest of former president Pedro Castillo in December 2022 and the violent inauguration of current president Dina Boluarte, Peru is a country that is far from being a democratic country if we use respect for human rights and accountability of the perpetrators of human rights violations as a measure. From the day Dina Boluarte was sworn in as President, numerous protests and mobilizations were triggered by her resignation, the dissolution of Congress and new general elections in different cities of the country such as Ayacucho, Apurimac and Puno. The response of this government was authoritarian as the demonstrators were violently repressed, causing numerous deaths of Peruvian citizens. For this reason, investigations have been initiated by the Public Prosecutor's Office against the current President of the Republic and her ministers for the alleged crimes of genocide, aggravated homicide and serious injuries.

In this context, the security and freedom of expression of human rights defenders, journalists and civil society organizations is of concern due to its weakness and fragility, since in Peru, not only democracy is in danger but also the security and rights of citizens, mainly journalists, human rights defenders and non-governmental organizations. Criticism and demonstrations are treated with violence and polarizing discourses between sectors and classes, where those who demonstrate against the government are accused of being terrorists. In this context, narratives have been developed to stigmatize, incriminate and incite self-censorship to those who protest or criticize the government. This strategy starts from the instrumentalization of the fight against terrorism to silence those opinions or criticisms of the government<sup>1</sup>.

In addition, there has been repression through various attacks against human rights defenders, not only through the criminalization of social protest, but also against land and environmental defenders. This situation is replicated for journalists and media outlets that investigate

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<sup>1</sup> For more information on the stigmatization and persecution of speech on the Internet, review the following self-authored report [here](#).

corruption and human rights issues, as they face threats of aggression and even aggressions themselves.

Threats are also digital and there have been reports of attacks that lead to self-censorship or self-exclusion from participation in political life in the country in digital environments. Thus, human rights defenders, journalists and civil society organizations face numerous risks to their security and freedom of expression. These actors are exposed to physical violence, judicial persecution, smear campaigns and an environment of impunity.

## **2. Recent bills in Peru limit or restrict spaces for freedom of expression, assembly and political participation of civil society organizations**

Since October 2023, seven bills have been presented in Congress that threaten the operation and continuity of NGOs in Peru:

1. **Bill No. 6162 (2023)**, Law that Establishes the Mandatory Registration and Submission of Annual Statements of National NGOs, Foreign Entities and Institutions of International Technical Cooperation, among others. This initiative provides for the mandatory registration of all non-profit organizations in the Peruvian Agency for International Cooperation - APCI, as a condition to receive international cooperation donations; and under threat of administrative, civil and even criminal sanctions.
2. **Bill No. 6252 (2023)**, Law that Establishes Provisions to Guarantee Transparency and Oversight of Non-Governmental Organizations. Presented on October 27, 2023. This proposal establishes the obligation for all NGO's to respond to citizen requests for access to information, equating NGO's with public entities.
3. **Bill No. 7140 (2024)**, Law that Strengthens the APCI in its Functions of Control, Supervision and Inspection of Non-Governmental Development Organizations, Foreign Entities and Institutions of International Technical Cooperation, and other entities receiving International Non-Reimbursable Cooperation. This initiative includes among the functions of the APCI the denunciation of a recipient entity or NGO before the Public Ministry, the National Police, the National Superintendency of Tax Administration and the Comptroller General of the Republic, when a citizen denounces the NGO or recipient entity for "reasonable indications of the commission of criminal offenses or administrative infractions in tax matters". Open wording that contravenes the right to due process of the organizations.
4. **Bill No. 7367 (2024)**, Law that contributes to the Transparency and Supervision of the Execution of the Resources Received by NGOs from Non-Reimbursable International Technical Cooperation. This proposal textually prohibits NGOs, which receive international cooperation and are registered in the APCI, from contracting with the State.
5. **Bill No. 7354 (2024)**, Law that establishes the modification of Law No. 27692, Law of Creation of the APCI. In this initiative, it is proposed to modify the organic structure of the APCI, as well as its functions, to include in the coordination of technical cooperation projects, "the institutional objectives and principles of the Central Government, Legislative Branch, Judicial Branch, and constitutionally autonomous bodies".
6. **Bill No. 7146 (2024)**, Law that promotes Parent Schools in Regular and Private Basic Education Institutions. The content of this proposal prohibits NGOs, which receive foreign funding "or from cooperating sources or any other kind, either from national or international resources", from conducting workshops in schools.
7. **Bill No. 7818 (2024)**, Law that modifies articles 96 and 109 of the Civil Code, and article 410 of Law No. 26887, General Law of Corporations, which regulate the dissolution of Associations, Foundations and Corporations. This proposal includes as a cause for judicial dissolution the receipt of financing from any type of national or foreign organization "that finances, promotes, carries out or develops activities abroad

considered illicit in Peruvian territory”.

In short, all these initiatives appear to be aimed at strengthening the supervision of international funding and transparency in the tax history of organizations that receive donations from abroad. In reality, however, it is a violation of the rights of association, assembly and freedom of expression. It is a political interference on the agenda of associations that defend human rights, with the indirect objective of affecting their sustainability and continuity.

On June 5, 2024, the Congress' Foreign Affairs Commission approved the opinion, which accumulated five of these seven projects (the first five on the list). The opinion includes state oversight of organizations engaged in political activism. Specifically, it provides for the mandatory registration of “all organizations and entities that develop political activism with direct or indirect financing from the International Technical Cooperation (...). This is, according to the text, “that which seeks to modify national public policies or electoral results in favor of the interests of private foreign entities with resources from international technical cooperation”<sup>2</sup>. This, despite the fact that the Constitutional Court had already ruled on this issue in 2007, stating that registration in the records of the Peruvian Agency for International Cooperation (APCI) was not a mandatory condition for organizations to receive international technical cooperation, since it was constitutionally prohibited to request prior authorization to form an association<sup>3</sup>.

Likewise, this opinion creates new serious and very serious infractions. One of them is as disproportionate as the cancellation of the inscription and registration in the APCI; that is to say, the closing and cessation of operation of the organization<sup>4</sup>. Since November 29, the ruling has been scheduled for discussion in the full Congress. Therefore, if this proposal is approved, the work of organized civil society will be endangered, following the regional trend in the regression of rights and political persecution of human rights defenders, as has happened in Venezuela, Nicaragua and El Salvador.

### **3. The use of social networks to disseminate narratives that accuse NGOs of misconduct, and whether this type of content has been linked to explicit or implicit (coded) calls for offline violence**

Social networks, as well as the media in general, are commonly used to disseminate narratives that accuse NGOs of misconduct, promoting the discrediting of these human rights organizations by questioning their legitimacy, their work, their funding and their political alignment. Thus, narratives of alleged “betrayal” are created where NGOs are portrayed as enemies of development for receiving foreign funding for subversive purposes to promote agendas aligned to the convenience of their funders. There has also been talk of mismanagement of resources, leading people to believe that NGOs are systematically managed in a corrupt manner. This type of comments and narratives are developed not only at the level of social networks, but also in television and radio programs at the national level. Thus, to promote this narrative, not only digital channels are used, but also national television channels such as Willax.

Polarization and discrediting campaigns are not only limited to networks, but are also linked to implicit or explicit calls for violence. These can be through direct or indirect instigation of aggressions indicating that they should “get these traitors out of the country” or “bring justice

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<sup>2</sup> [Opinion of the Congressional Foreign Relations Commission](#), p. 245.

<sup>3</sup> [Constitutional Court \(2007\). Rulings 0009-2007-PI/TC and 0010-2007-PI/TC \(joined\)](#). Plenary. Legal basis 95.

<sup>4</sup> Op cit, p. 249.

against the enemies of the country”. These narratives often use derogatory language tending to dehumanize and stigmatize. There are even collectives, such as “The Resistance”, that have generated direct physical attacks on leftist journalists and/or government critics. The possibility of registering organizations that engage in political activism has even been raised<sup>5</sup>.

Hiperderecho conducted between 2023 and 2024 an investigation on the aggravation of penalties and the prosecution of speeches on the Internet. In this sense, an analysis was made on the anti-terrorist legislation, which in principle, emerged as a response to terrorism in the Internal Armed Conflict of 2000. As a result of the analysis, it became evident that this criminal type has been used as a tool to generate polarization in the context of social protests against the government. In this way, a narrative of “terruqueo” is created, promoted by the State and public actors to stigmatize and criminalize those who exercise their right to protest and criticize the current authorities. In this sense, the persecution of the apology to terrorism in social networks, in the context of the protests, served as a state strategy of self-validation and self-legitimization.

#### **4. The use of images manipulated with artificial intelligence to harass, intimidate and threaten activists and journalists with violence**

According to a global interview carried out by UNESCO<sup>6</sup>, the most recurrent topics for which an activist was the target of digital violence are: gender (49%), politics and elections (44%) and human rights and public policy (31%). Thus, it is clear that women leaders, who are spokespersons for public policies, or who publicly express political positions, such as the directors of associations working on human rights, are a recurrent target for those who perpetrate digital violence.

The use of images of women defenders, which are manipulated with AI in order to threaten or objectify, has consequences on their rights to physical integrity, to work, to health (both physical and mental), and to freedom of expression. According to the UNESCO survey, 20% of women journalists stated that they had been attacked offline in connection with online violence they had suffered. Likewise, among the threats of physical violence against women journalists, death threats or sexual violence were the most recurrent. In terms of impacts on their routine, economy or work, online physical threats caused victims to increase their personal security, or even to miss work or request a transfer, due to the constant fear of a physical attack.

Regarding health, 25% of the journalists surveyed reported impacts on their mental health, such as suffering post-traumatic stress syndrome. And, with respect to freedom of expression, 30% of women journalists indicated that digital violence affected their research activity and their interaction with sources and audiences, as it generated an effect of self-censorship online. In a similar research, Amnesty International calls this problem the “silencing effect”, which has consequences not only for the person who is the direct target of digital violence, but also for the freedom of expression of other women, as it sends the message that if they express their opinions publicly, they are also exposed to violence<sup>7</sup>.

In this case, it is an image showing the face of a human rights defender covered in blood. This translates into a threat against her integrity, an incitement to violence; and, therefore, into digital violence. Especially if we take into account the situation of persecution of defenders and associations that carry out political activism, as well as in a context in which criminal gangs -

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<sup>5</sup> For more examples, check the [following link](#).

<sup>6</sup> UNESCO (2021). [The Chilling: Global trends in online violence against women journalists](#).

<sup>7</sup> Amnesty International (2018). [#ToxicTwitter: violence and abuse against women online](#).

presumably financed by political representatives<sup>8</sup> - are organized to attack in a coordinated manner through social networks, as in the case of “La Resistencia” (The Resistance). This situation was already warned by the Special Rapporteur for Freedom of Expression of the IACHR in his visit to Peru: “online violence against journalists or violence against women who express themselves in digital spaces continue to be points of particular concern in the country” (2023)<sup>9</sup>. Therefore, if the publication in question is allowed, the work, physical integrity, health and freedom of expression of the Peruvian human rights defender would be put at risk.

### **5. The moderation of veiled or implied threats of violence that require additional context to be interpreted. This includes the impact of errors in removing or failing to remove content containing veiled or implied threats to freedom of expression and other human rights**

The moderation of threats of violence is an extremely complex issue as the context of these threats of violence must be taken into account. Such threats are often difficult to interpret without additional context. Implicit threats, those that do not explicitly call for violence, suggest or incite acts of violence, but indirectly. The importance of analyzing these messages is that they can be subtle and require deeper human analysis depending on the specific context. The impact of these errors in terms of not eliminating veiled threats generates incitement to violence, in a public way, empowering aggressors, and generating environments of hostility, fear and normalization of violence against human rights defenders, journalists and activists.

Moreover, this is a particularly relevant issue in Peru because there are already cases and there have already been events in which journalists or human rights defenders have been attacked for carrying out their work through calls made on social networks. This is the case of Marco Sifuentes, in his recent book presentation, or Rosa María Palacios, who is systematically attacked as a result of calls made on social networks.

It is important to note that, in Peru, threats of aggression or calls for aggression through social networks often escalate to a level of physical aggression and disruption of daily life. These situations of constant harassment must be addressed so that human rights defenders can carry out their work without putting their physical integrity at risk.

Sincerely,

Hiperderecho Civil Association.

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<sup>8</sup> Independent media “Epicentro” (2024). Article [“The links of the Resistance and its environment with the parties of the coalition that governs Peru”](#).

<sup>9</sup> RELE, IACHR (2023). [Special Report on the Situation of Freedom of Expression in Peru](#).