



Peru

What is the current situation in the country, especially with regards to trade unionism?

Peru is currently undergoing a phase of second-generation neoliberal state reform. President Lieutenant Colonel Ollanta Humala Taso's government has undertaken intensive legal reforms to adapt the country's legislation to the requirements and mobility of the private sector and the market and to the free trade treaties that the country has signed.

The most important changes are as follows:

- Law 30045 on the Modernisation of Sanitation and Water Supply Services of 18 June 2013. This legislation does not recognise access to drinking water as a human right; opens the way for privatisation of the state-owned water utilities (Empresa Públicas de Agua, EPS); threatens the job security of workers by proposing the restructuring and rationalisation of human resources at the EPS; centralises decision-making in the hands of the Minister of Housing; and ignores the need for participation by the community and employees in decision-making.
- Budget Law 2013 restricts collective bargaining for public sector employees and removes pay rises and other financial benefits from the collective bargaining agenda.
- Civil Service Law 30057, described by the media as the government's most important reform, was approved on 4 July 2013.

Reform of the health sector and universities is also under way, giving continuity to the privatisation of the health sector and the elimination of participation by teachers, workers and students in education policy at the universities.

Labour problems persist in the public sector. The following are the most important:

- Political party interference affecting access to jobs in the public sector;
- Increase in working hours and increased use of technology;
- Persistence of gender segregation in employment, and gender pay gaps;
- Increase in the number of women and young people engaged in precarious work;
- Precarious infrastructure slows down work in the public sector.

Trade unions

Peru has four trade union centrals: the Confederación General de Trabajadores del Perú (CGTP); the Central Unitaria de Trabajadores (CUT); the Confederación de Trabajadores del Perú; and the Central Autónoma de Trabajadores del Perú (CATP). The CGTP claims to represent 80% of union members.

Public sector workers have three trade union structures: CITE, CTE and UNASSE. These organisations formed the Unified Action Committee (Comité de Lucha Unitario) to respond to the government's anti-trade union policies:

- Campaign to discredit the unions accompanied by repression of trade union action.
- Intimidation, persecution and use of the judicial system to counter trade union action. Three days before the mobilisation planned for 27/28 July, the trade union leaders Ana María Lizarraga, UNASSE general secretary, Domingo Cabrera, CTE collegiate general secretary, Winston Huaman, CITE collegiate secretary and Mario Huaman, CGTP general secretary, were notified by the public prosecutor's office that the Ministry of the Interior had alleged an offence against public security. Notification was delivered to the residences of these leaders and their families and was a clear attempt to frighten the leadership.

Despite this situation, unity of action began in August 2012 on the initiative of PSI Peru and supported by the CGTP. It was consolidated during the year and became an essential focus for the defence of labour and trade union rights.

The high points of this programme of unified action was the mobilisation on 13 December 2012; the national public sector assembly on 15 May; the staggered national strike between 29 April and 4 July; and the march from the regions to Lima on 27/28 July. Hundreds of thousands of workers participated in these actions. As a result of this trade union action, the government invited the unions to negotiate and a series of bipartite meetings began on 18 July. Workers representatives formally presented their objections to the laws. In addition to these talks, public sector unions have indicated their wish to continue mobilising and to make a formal complaint to the ILO about the unconstitutionality of the government's measures.

What is the new legislation?

The new Civil Service Law was approved on 4 July 2013, accompanied by public sector trade union action and strikes organised by CITE, CTE and UNASSE, all affiliated to the CGTP. Public sector union affiliates are as follows: Federación Nacional de Trabajadores Administrativos de Educación (FENTASE), Federación Nacional de Trabajadores Administrativos de las Universidades (FENTUP), Federación Nacional de Obreros Municipales (FENAOMP), Federación Nacional de Trabajadores de Agua (FENTAP), Federación Centro Unión de Trabajadores de la Seguridad Social (FED CUT- ESSALUD), Federación Nacional de Trabajadores de Aduanas y Tributación (FENTAT), Federación Nacional de Trabajadores del Poder Judicial de Perú (FNTPJP), Sindicato de Trabajadores del

Congreso (SITRACON), Sindicato de Trabajadores del Ministerio de Comunicaciones (ST MTC). They are all affiliated to Public Services International.

The new law “verticalizes” labour relations between the state and workers. It restricts the freedom of organisation, the right to collective bargaining and the right to strike. It threatens job security by imposing punitive job assessments, requiring employees to re-apply for their own jobs and restructuring the administration of public institutions.

Public sector trade unions say that this legislation will not resolve either administrative disorganisation or deal with inequity in public employment.

The ILO’s Governance and Tripartism Committee has noted the lack of consultation with trade unions, the restrictions on collective bargaining and the restrictions on the right to strike.

The Women Parliamentarians’ Group (Mesa de Mujeres Parlamentarias) has noted the violation of the freedom of association and of ILO Convention 183 on Maternity Protection. The PSI Peru’s National Women’s Committee noted that the new legislation has no gender policy and violates ILO Conventions 100, 183 and 111.

Members of Congress belonging to various political tendencies, trade unions and human rights organisations have questioned the new legislation and noted that several aspects of it are contrary to international labour legislation and that it does not include mechanisms to promote the provision of quality public services.

How will the new Civil Service Law affect the workers?

1. It creates a fourth labour regime in the public sector. That is, it excludes (approximately 250,000) workers from the Administrative Career Law (276); it excludes workers from the Administrative Contracts for Services Law (Ley de Contrato Administrativo de Servicios, CAS) and excludes workers from the private labour regime (728). In order to continue their career, public sector workers employed under the above-mentioned regimes must sit an examination to get their jobs back. This examination will not take into account their years of service. Workers who do not sit the examination will be excluded from the new administration, that is, they will lose their jobs.
2. It introduces punitive annual assessments. Workers who are not awarded a minimum number of points will lose their job.
3. It legalises unfair dismissals and increases the number of reasons that can be used to justify eliminating jobs.
4. It promotes institutional reorganisation and the simplification of processes without consultation with the trade unions. Such administrative restructuring has historically been used to eliminate jobs and consequently reduce the number of workers.
5. It authorises line managers to redeploy workers. The unions have expressed their concern that this provision could increase harassment of trade unionists.

6. It restricts the payment of wages to the time effectively worked. This concept is already being applied in various state institutions and has tacitly eliminated trade union facility time, sickness leave and maternity leave.
7. It affects the freedom of organisation. The law states that workers' organisations should be restricted to each respective institution and rejects the option of sector or branch level organisation.
8. It restricts collective bargaining. It restricts trade union rights to negotiate pay increases and other financial benefits.
9. It weakens the right to strike. The law authorises public sector managers to recruit staff during strikes in order to maintain service provision.

Trade union leaders have publicly agreed that genuine modernisation of labour relations in the public sector is indispensable. However, modernisation should take into account the needs of the population and its right to be provided with quality public services; should be in line with international labour law; and should involve the participation of workers' organisations. These should be the fundamental parameters of the reform process.

Marcella Arellana
PSI COORDINATOR PERU
15 August 2013