Law and International Politics

ISSN: 2683-1597

MLS Law and International Politics

July - December, 2024

VOL. 3 No. 2

https://www.mlsjournals.com/MLS-Law-International-Politics

MLS - LAW AND INTERNATIONAL POLITICS

Vol. 3 ● Núm. 2 ● Diciembre – December - Dezembro 2024

https://www.mlsjournals.com/MLS-Law-International-Politics

ISSN: 2952-248X

SUMARIO / SUMMARY / RESUMO

Editorial

We are pleased to share the second issue of the year 2024 of the Law and International Politics journal, which is integrated by important scientific texts that provide guidelines through its research lines that allow us to observe the scientific dynamism for the growth of knowledge in the areas of law, business and politics. It is important to note that the views of the writers in this issue provide a multifaceted panorama that leads us to a deeper analysis of the legal-political action agendas for the world.

The first text in this edition reflects on the jurisdictional control of public policies after the 1988 Constitution, Brazil, offering a doctrinal and jurisprudential approach to aspects related to the manifestation of judicial activism in the field of judicial control of public policies in Brazil. Through this documentary analysis, the increasingly proactive action of the Judiciary is presented, pointing out the lack of observance of the "existential minimum" by the Brazilian State.

The second research work focuses on governments as safeguards and guarantors of the rule of law, they need clear, assertive and adequate visions to the needs of the populations they lead and represent. The article entitled “The decriminalization of sentimental abortion in the Peruvian penal code 2024 for violation of women's fundamental rights”, shows a human face of the needs of sexually violated women and their criminalization in the practice of abortion, in turn, demonstrates the perception of the transgression of the fundamental rights of pregnant women and victims of sexual crimes.

The third research article addresses aspects of governmental representation, as a State Custodian of the interests of its population, which the population is capable of manifesting through the exercise of its civil and political rights. The article explores aspects of the protection of the right to peaceful demonstration in defense of democracy in the international system, the subsystems of protection of human rights and the protection of fundamental rights established in national law.

The fourth scientific article reviews the conventional parameters to which every State is bound by international agreements and treaties, which allows for an interpretative review of the internal regulations applied to the various countries and their compliance with international standards. The text analyzes and compares Honduran laws and decrees that protect the rights of indigenous and Afro-descendant communities, seeking to evaluate the strengths and weaknesses of the current legal framework and the obstacles to its effective implementation from a qualitative approach.

The fifth scientific text develops an analysis of the principle of progressivity in the field of human rights, the Nation States are required to use their resources in the fulfillment of their national and international obligations in this field. The article identifies the short-run linkages and long-run equilibrium dynamics in Angola's economic landscape, focusing on understanding the complex dynamics of these variables.

Finally, this issue of the magazine includes a sixth article that points out the effect of the right political decisions that allow avoiding economic and humanitarian crises around the world, because through a look at history, politics and economics, it reflects how inflation and recession play a fundamental role in unemployment, lack of investment, inequality, among many other aspects.

We hope that this is another edition to your liking.

MLS – LAW AND INTERNATIONAL POLITICS (MLSLIP)
https://www.mlsjournals.com/MLS-Law-International-Politics
ISSN: 2952-248X

(2024) MLS-Law and International Politics, 3(2), 7-20. doi.org/10.58747/mlslip.v3i2.2887.

EXISTENTIAL MINIMUM AND RESERVE OF THE POSSIBLE: CONSIDERATIONS ON JURISDICTIONAL CONTROL OF PUBLIC POLICIES IN POST-1988 CONSTITUTION, BRAZIL

MÍNIMO EXISTENCIAL Y RESERVA DE LO POSIBLE: REFLEXIONES SOBRE EL CONTROL JURISDICCIONAL DE LAS POLÍTICAS PÚBLICAS DESPUÉS DE LA CONSTITUCIÓN DE 1988, BRASIL

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Manuscript information:

Recebido/Received:04/06/2024
Revisado/Reviewed: 14/11/2024
Aceito/Accepted: 17/11/2024

Keywords:
judicial activism; fundamental rights; existential minimum; public policies; reserve of the possible.

ABSTRACT

In the face of omissions involving the thorough fulfillment of positive rights, consistent with the State's failure to comply with the 'existential minimum', the Brazilian Judiciary has taken an increasingly proactive role. This paper aims to analyze, within the scope of the legal doctrine and jurisprudence, aspects related to the manifestation of judicial activism in the context of judicial control of public policies in Brazil. The relevance of this study rests on the fact that such proactive stance has been a notable feature in the post-1988 Constitutional period by means of the 'Claim of Non-Compliance with a Fundamental Precept' (ADPF, in portuguese) number 45/Federal District (DF), which recognized the possibility of formulating and implementing public policies through the Judiciary's determination on exceptional grounds. The research was bibliographical and documental in nature, with a qualitative approach. The results show the existence of disparate views on the prominence of the Court, frequently based on the democratic and separation of power principles and on the urgency in the fulfillment of positive rights.

Palavras-chave:
activismo judicial; derechos fundamentales; mínimo existencial; políticas públicas; reserva como sea posible.

RESUMEN

El presente artículo tiene como objetivo analizar, desde un enfoque doctrinal y jurisprudencial, aspectos relacionados con la manifestación del activismo judicial en el ámbito del control judicial de las políticas públicas en Brasil. La investigación es de tipo bibliográfico y documental, con un enfoque cualitativo. Ante las omisiones que involucran la plena realización de los derechos prestacionales, que consisten en la falta de observancia del "mínimo existencial" por parte del Estado, el Poder Judicial ha protagonizado una actuación cada vez más proactiva, observable desde la post-Constitución de 1988, a partir de la Arguição de Descumprimento de

Preceito Constitucional (ADPF) 45/DF, en la que se reconoció la posibilidad de que la formulación e implementación de políticas públicas se lleven a cabo, con bases excepcionales, por determinación del Poder Judicial. Los resultados evidencian la existencia de visiones dispares respecto al protagonismo del Tribunal, teniendo en cuenta el principio democrático y de separación de poderes, así como la urgencia en la concreción de los derechos prestacionales.

Introduction

Public policies translate strategies or government action programs aimed at achieving politically and constitutionally determined objectives. In other words, they refer to the 'State in action' to address economic, political and social issues, whose effectiveness is required in light of the constitutional precepts. Specifically, the normative principle of human dignity implies that the minimum conditions of existence [existential minimum cannot be guaranteed without first ensuring it's positive dimension of state obligations, which are a positive dimension of the so-called 'minimum living standards' and, therefore, linked to the principle of human dignity.

In this sense, in order to comprehend the implications of the failure to fulfill this State's duty to provide services, in other words, of the deficit in public policies implementation, it is necessary to point out the connection between the crisis of both representation and functionality of the political powers in Brazil. This connection will later be used to analyze the prominence of the Judiciary in the control of public policies, an approach observed as a skillful response to the fulfillment of constitutionally guaranteed rights. In this context, we examine the transformations in the Supreme Federal Court's (STF) case law following the advent of the 1988 Constitution. A change is seen in the self-contained stance of the Court towards a manifestly proactive approach, under the scope of guardianship of the 'existential minimum'.

Indeed, once instigated, the Judiciary cannot refrain from issuing a statement, under penalty of incurring in a denial of judicial relief. It is precisely in the manner in which it does so that one may or may not verify, or not, the existence of judicial activism. Although judicial activism can achieve progress, especially with regard to the effectiveness of fundamental rights, it has — for a long time — been the object of investigations and doctrinal positions, most of which address the 'contraindications' in its current *modus operandi.* The discussion concerning judicial activism revolves around the usurpation upon the duties of the Legislative and Executive branches, considering the institutional overlap of the Judiciary, in contrast to the principle of independence and harmony of the three branches.

Judicial activism is subject to multiple definitions that, for the most part, issue value judgements: sometimes with a positive connotation, as an effective means of fulfilling rights (e.g. in the event of legislative inertia); sometimes with a negative connotation, seen as a phenomenon "either linked to a judicial relief marked by arbitrariness or to a usurpation of competence on the part of the judge" (Ramos, 2021). Roughly speaking, it can be said that this activism relates to a judicial action that exceeds its classic limits. In other words, it transcends the boundaries of the jurisdictional role.

Historically, the term "judicial activism" has its beginnings in the paper "The Supreme Court", by the American historian Arthur M. Schlesinger, published in Fortune magazine, vol. XXXV, no. 1, January 1947. Despite its terminological origin, judicial activism — as a phenomenon related to the expansion of the institutional space occupied by the Judiciary — has a different causality, long predating the creation of the term. This is because, dating back to the 19th century, especially in North American doctrine, we can find discussions related to what is now known as "judicial review". As Clarissa Tassinari (2012) recalls, the judicial review was inaugurated in the USA by the case of *Marbury* v. *Madison* (1803), which asserted the power of the Supreme Court to declare unconstitutional and cease from applying a federal law as incompatible with the Constitution.

It should be noted that, in the aforementioned period, the Constitution of the United States of America did not expressly grant the exercise of judicial review to the American courts - the review was not an attribution of the Judiciary. Since then, discussions on the subject have been enabled, leading to debates of increased significance and depth - especially with the subsequent multiform judicial activity in its activist stance.

In fact, as stated by Luís Roberto Barroso (2009): "in different parts of the world, at different periods, constitutional or supreme courts stood out in certain historical segments as protagonists of decisions involving far-reaching issues". However, it must be emphasized that the gradual progression of judicial activism has given it a certain diagnostic complexity, in view of the countless political, social and institutional transformations — including the legal culture itself — that have taken place over the years. This is why much is currently said about the distinction between this phenomenon and the judicialization of politics.

In Brazil, the causality of judicial activism is linked, in a more expressive way, to the process of redemocratization — enacted by the Constitution of 1988. The reason for this is that, after the Brazilian Military Regime (1964-1985), "a favorable environment — a democratic one, therefore — to the development of the idea of fulfilling citizens' rights was created", as Tassinari (2012) observed. According to the author, this is equivalent to saying that "it was only with the notion of democratic constitutionalism — and precisely because of it — that the judiciary began to think from an activist perspective". Along these lines, the evolution of judicial review is also worth mentioning, considering the expansion of the exercise of constitutional jurisdiction and, notably, the primary competence of the Supreme Federal Court as guardian of the Constitution.

Such a meaning is appropriate, which is why numerous decisions of the STF might be mentioned in the post-1988 Constitution era — to what some call the “second phase” of judicial activism, highlighting the proactive role of the Supreme Court:

Thus, judicial activism in Brazil has manifestations that can be concretely identified in the light of the doctrinal concepts above within the legal system inaugurated by the 1988 Constitution. As follows, it is important to understand that in the Brazilian context, unlike in the United States, "there has been an almost unreflective diffusion in the imagination of institutional agents that an activist Judiciary would not only be advantageous, but also necessary in order to achieve the fulfillment of fundamental rights" (Pessoa; Neves, 2021). This statement can be verified in the context of the judicialization of public policies, in such a way that judicial intervention is seen — in certain circumstances — as an indispensable means for the effectiveness of positive state obligations.

One cannot expect to deliberate about judicial activism without first observing its meaning in the context of a rule-based democracy. That is due to the democratic ideal laying down limits to the exercise of power (scope of non-concentration), as seen through the division of state attributions and roles. In fact, the country's legal system — in view of the compensation system — requires that each of the state's "gears" fulfill their purpose, under penalty of systemic compromise. José Afonso da Silva explains the functions of the State in these terms:

> The legislative role consists of issuing general, abstract, impersonal, and innovative rules of the legal order, called laws. The executive solves concrete and individualized problems in accordance with the laws. Its role is not limited to the simple execution of laws, as sometimes said; it includes prerogatives and all legal acts, and facts that do not have a general and impersonal character also come under the executive role. For this reason, it is appropriate to say that

> the executive is divided into a government function, with political, co-legislative, and decision-making attributions, as well as an administrative function, with its three basic missions: intervention, promotion and public service. The jurisdictional role aims to apply the law to specific cases in order to resolve conflicts of interest (Silva, 2009).

It should be noted that the theory of the separation of powers was incorporated into constitutionalism by the work of Montesquieu, conceived precisely to ensure the freedom of individuals. It is indeed accurate that — in the context of the evolution of fundamental rights — there was the advent of positive freedoms, linked to the principle of equality and, *ipso-facto*, to the provisional duty of the State. Afterwards, there was also the rise of guardianship mechanisms for diffuse and collective interests, bearing in mind the ideals of fraternity and solidarity. In any case, when considering the principle of the separation of powers, it is essential to reference the dimensions (or generations) of fundamental rights — without neglecting those not mentioned (4th, 5th, and perhaps 6th dimensions).

It must be inquired, however, how this meaning would remain if the principle of the separation of powers were set aside, precisely in order to guarantee — in certain situations — the effectiveness of fundamental rights. This is a fair provocation, and the response evokes the risk of institutional domination by one Branch over the others. It is important to emphasize that — by acquiring a kind of institutional prominence — the Branch that has been empowered under the scope of fulfilling rights can, at a given moment, change its *modus operandi* and not be bound by the observance of this initial scope. That is the reason for the warning: one cannot dismiss the risks of acting in a way that is tangential to constitutional competence by looking only at the immediate effects of the phenomenon. Rather, we must visualize the possibilities infused in this stance in view of how much it is fundamentally regulated by the constitutional convention.

Within this context, it is important to note that Article 2 of the Federal Constitution (CF) proclaims the Principle of Independence and Harmony between the Powers; the separation of which is a permanent clause, under the terms of Article 60, § 4, III.

Nevertheless, the Judiciary, for quite some time, has understood that when it comes to public policies, “it would be a distortion to consider that the principle of the separation of powers, conceived initially to ensure fundamental rights, could indeed be used as an obstacle to the fulfillment of equally fundamental social rights” (REsp 1.041.197/MS, Judge-Rapporteur: Justice Humberto Martins, Second Panel, DJe 16/9/2009). This is because "[...] in the realm of individual and social rights of absolute priority, the judge should not be impressed or swayed by claims of convenience and opportunity brought by the negligent administrator." (REsp 440.502/SP, Judge-Rapporteur: Justice Hermam Benjamin, Second Panel, DJe: 24/09/2010). This understanding is consolidated in the precedents of the High Court of Justice and the Supreme Court, as we further discuss.

The debate centers on the "price to be paid" to uphold the Welfare State. This is a discussion with numerous biases, as stated. From a perspective of constitutional rights effectiveness, as a response to legislative inertia or omissive and commissive actions by the Executive that harm rights, the Judiciary can take proactive measures to enforce those rights. For example, in cases regarding health and environment, the Judiciary can take action to protect people's rights. This can be affirmed with great caution, presuming the exceptionality of this action, because of the jurisdiction's non-obviation (Art. 5, XXXV, CF), and due to the primary competence of the Brazilian Supreme Court to ensure fundamental rights, as guardian of the Constitution. The major challenge lies precisely in the

unpredictability of the extent of the Judiciary's interference in another branch of government, especially considering the lack of support in the Constitution.

In this sense, Luís Roberto Barroso (2008) ponders that "judicial activism has so far been part of the solution, not the problem. Yet, it is a powerful antibiotic, and its use should be occasional and controlled". In fact, the effects of proactive judicial action have often been aligned with the intentions of the original legislator, as they often imply overcoming a state of affairs foreign to constitutional commands. Nevertheless, it is not possible to fully analyze the phenomenon based on its effects, whose predictability is controversial, and this is where judicial activism presents more significant challenges. There is an ongoing debate among scholars regarding the means employed to guarantee rights in a way that follows the principles of the rules-based democracy. While it cannot be said that the guarantee of rights is contrary to the Constitution, there is a disagreement about whether the methods used, such as activism or decisionism, align with these principles.

Judicial activism, which allows for discretionary decision-making, can sometimes work against the democratic ideal. This is because it goes against the principles of independence and harmony that govern the relationship between the branches of government. However, it is crucial to emphasize the impossibility of detracting from the link between the manifestations of judicial protagonism and the fulfillment of rights, which is equally esteemed to the democratic ideal. For this reason, debates should be based — more necessarily — on the viability of judicial activism in specific hypotheses. There may be situations where the only way to address a problem the authorities need to handle appropriately and urgently is to use a remedy with known risks.

Method

The objective was investigate, through qualitative, bibliographical and explanatory research, how the violation of positive rights prompts an exceptionally proactive stance from the Judiciary, in view of safeguarding these rights and overcoming state failures involving the formulation and implementation of public policies. To this end, we highlight elements of this assertive response, such as the use of the 'existential minimum' within the case law of the Supreme Federal Court in coexistence with the 'reserve of the possible budget'. This is preceded by a doctrinal analysis of the judicial control pertaining to the merit of administrative acts. The analysis of case law, in turn, also denotes a documental nature of the research.

The chosen method was inductive, as it aimed to derive answers from the analysis of a set of judicial decisions emanating from the Supreme Court. Data collection was carried out through sources that allowed for a comprehensive understanding of judicial activism and, simultaneously, facilitated the establishment of a parallel between the occurrence of this phenomenon and omissive and/or commissive behaviors undertaken by the Legislative and Executive Powers concerning public policies; something that presupposed a centralized understanding in the realms of democratic representation, separation of powers, and fundamental rights, intrinsic to Constitutional Law. In this regard, laws, doctrines, scientific articles, and, primarily, judgments of the Supreme Court were the subject of analysis.

Discussions

The State's failure in providing services is the subject of numerous academic investigations and a recurring topic in studies of judicial activism. Barroso (2008) argues that the Judiciary's prominence stems from dysfunctions that undermine the democratic state, including the crisis of representation and legislative functionality. In this context, it is essential to pay attention to the complexity of the system, as the author states: "The expansion of the judiciary should not divert attention from the real dysfunction afflicting Brazilian democracy: the crisis of representation, legitimacy, and functionality of the Legislative Branch". Therefore, it is important to observe one of the most concrete manifestations of this prominence as a consequence, among others, of the aforementioned functional and representative deficit: the judicial control of public policies.

Therefore, recognizing the central role of the Legislative Branch in enacting new rights, "the Brazilian parliamentary exercise has not reflected the aspirations of society and the practice of representative democracy" (Garcia; Zacharias, 2013). For this reason, it is essential to consider the connection between the challenges of representation and functionality within this branch of government and the handling of public policies.

Peres and Silva (2020, p. 570) highlight the relationship between this scenario and judicial prominence. They emphasize that "the Legislative Branch, specifically the Congress, must take responsibility for its actions, fulfill its constitutional duties, and address any omissions. By not creating laws, the Legislative Branch significantly contributes to expanding the Judicial Branch". It is essential to note that the challenges experienced in the legislative process are not only due to the legislator's inertia and inadequate representation of the electorate. The Executive Branch also plays a significant role in implementing public policies, which can lead to the difficulties being faced.

It should be noted that, initially, the position of the Supreme Federal Court was orthodox and, in a certain way, conservative when assessing the constitutionality of the norms. In other words, in the context of constitutional control, it was difficult to speak of "protagonisms" that could be analyzed in terms of judicial activism.

In fact, until the mid-1990s, the Supreme Federal Court did not act as a "positive legislator", that is, "it did not provide solutions for cases in which it declares laws unconstitutional, whether due to action or omission" (Vieira Júnior, 2015). From this period onwards, due to reasons previously discussed in this paper, variations in jurisprudence began to emerge, demonstrating a change in the self-contained mode of action of the Supreme Court. Regarding public policies, this self-restraint meant upholding the autonomy of the other branches of government in their formulation and implementation. This, in turn, made it almost impossible for the Judiciary to interfere in administrative decision-making:

> At first, the STF's self-restraint was the rule. The Court rigorously applied the principle of separation and harmony of powers, which is established in the 2nd Article of the Constitution and made unamendable by Article 60, § 4, III, of the Constitution. The self-restraint respected the prerogative of the Executive Branch's autonomy in the formulation, implementation, and evaluation of public policies, in defining priorities in the allocation of limited budget resources, and in adhering to the financially feasible clause. In this context, the judiciary could not review public policies regarding their merit, timeliness, and convenience (*Ibidem*, p. 6-7).

It should be noted that the administrative merit is "nothing but the power granted by the law so that the administrator may decide on the timeliness, and convenience, of a

certain discretionary act under practice" (Oliveira, 2019). Meanwhile, it is within the Judiciary's power to evaluate the legality of said act. Whereas, ordinarily and within the boundaries of the law, the public administrator is the one in charge of rendering the suitability and occasion (merit) of it. Simply put, the Judiciary is not authorized to replace the administrator's discretion with that of the judge. It must also accept administrative choices by substituting them with other options considered more suitable or timely. This is the conclusion drawn by Hely Lopes Meirelles (2021, p. 122), who states that this "assessment is solely the responsibility of the Government".

Despite what has often been repeated since the early 2000s, the jurisprudence of the Supreme Court — from the perspective of the non-obviation of jurisdiction — has emphasized the non-discretionary nature of judicial arbitrariness in the fulfillment of rights. Therefore, it is recognized that the judiciary may control and intervene in the formulation and implementation of public policies, although, as stated by Justice Celso de Mello, such an assignment belongs to other branches of government. Regarding this change in the Court's *modus operandi*, we refer to the claim of non-compliance with a fundamental precept (ADPF) number 45 - MC/DF (2004), in which the theory of "existential minimum" was first introduced in the STF's jurisprudence in a monocratic decision.

As per the synopsis of the decision:

> Claim of non-compliance with a fundamental precept. The question of the constitutional legitimacy of judicial control and intervention in the implementation of public policies when government abuse is established. [...] Decision: (...) I must acknowledge that the constitutional action in question is a suitable and effective tool to enforce public policies as stipulated in the Political Charter, such as in the case of Constitutional Amendment (*Emenda Constitucional* – EC) 29/2000, which have been violated either wholly or partially by the government instances mentioned in the Constitution itself. The Supreme Federal Court has been granted an eminent authority, which highlights the political dimension of constitutional jurisdiction entrusted to the Court. The Court cannot refrain from the grave responsibility of making economic, social, and cultural rights effective — as second-generation rights, these are related to positive, real, or concrete freedoms. (Quarterly Court Reporter, RTJ 164/158-161, Judge-Rapporteur CELSO DE MELLO) — under the risk of the Government, through positive or negative violation of the Constitution, unacceptably undermining the integrity of the constitutional order itself: "DISREGARD FOR THE CONSTITUTION - FORMS OF UNCONSTITUTIONAL BEHAVIOR BY PUBLIC POWER. Disregard for the Constitution can occur both through state action and through governmental inaction. [...] Certainly, it is not typically within the institutional functions of the Judiciary - particularly the Supreme Court - to formulate and implement public policies. (JOSÉ CARLOS VIEIRA DE ANDRADE, "Fundamental Rights in the Portuguese Constitution of 1976," page 207, item no. 05, 1987, Almedina, Coimbra). In this domain, the primary responsibility lies with the Legislative and Executive branches. In exceptional circumstances, the Judiciary may bear the responsibility of safeguarding individual and/or collective rights with constitutional status. This can happen when competent state bodies fail to fulfill their political and legal duties, which compromises the effectiveness and integrity of such rights, even if they are derived from clauses with programmatic content. (ADPF 45/2004, emphasis added).

From the aforementioned judgment's heading, another important element regarding judicial activism in the field of public policies becomes evident: the "need to preserve, in favor of individuals, the integrity and inviolability of the core of the 'existential minimum'".

The right to the "existential minimum" is part of "the notions of individual and collective fundamental rights, which the State must act positively to fulfill", and can include, for example, "the right to health, sanitation and housing, education, social assistance and social security, as well as access to justice" (Hess, 2010). This is the minimum that the State must provide to individuals and the community, in light of the principle of human dignity.

Nevertheless, while the "existential minimum" refers to a set of basic rights related to human dignity, its coexistence with the principle of the reserve of the possible must be pointed out. According to Ana Paula de Barcellos (2002, p. 236), this relation 'aims to delineate the economic phenomenon characterized by the constraint of available resources in the context of nearly always infinite needs that must be addressed by such assets', later asserting that this reserve 'means that, beyond the legal debates surrounding what can be judicially demanded of the State — and ultimately of society, since it is society that sustains it — it is important to recognize that there is a constraint within the material possibilities of realizing this right'.

The courts' understandings of absolute disregard for the reserve of the possible, in view of the 'existential minimum', deserve concern, such is the seriousness involved in dealing with what has been said. In this context, Júnior and Shimamura (*apud* Herrera, 2009, p. 84) point out that: 'the Judiciary's coercion over the Government to release funds to sponsor treatments not foreseen in the health system budget could suppress the right to health of other people or the treatment of a larger number with the same resource allocation'.

Thus, the right to the existential minimum implies the need for positive state obligations, but, according to the majority doctrine, it does not exempt compliance with the budget's reserve of the possible — given its conciliability. This is necessary — above all — in the context of judicial control, in which the balance of both the existential minimum and the reserve of the possible is essential in terms of the harmony between Law and reality. This finding recalls an old maxim, attributed to the French jurist Georges Ripert: 'when the Law ignores reality, reality takes revenge by ignoring the Law'.

Results

It should be noted that the judicial control of public policies, since the aforementioned ADPF 45/DF (2004), usually uses the perspective of the 'existential minimum', conceiving that its protection prevails over the 'reserve of the possible'. In this context, it is worth mentioning that the first board decision of the Supreme Federal Court that used the principle of the 'existential minimum' was in the judgment of the Internal Interlocutory Appeal in Extraordinary Appeal No. 410.175/SP, in 2005. Also in the judgment of Direct Action For the Declaration of Unconstitutionality 3.768-4/DF (2007), this principle is included in the vote of Justice Carmen Lúcia (Judge-Rapporteur), whose excerpt is shown below:

> The gratuity of public transportation represents a minimum condition for mobility, favoring the participation of the elderly in the community and fostering their dignity and well-being; yet, it is not compatible with the

> constraints imposed by the principle of the reserve of the possible. Instead, it should align e with the guarantee of the existential minimum, about which I have previously affirmed to be "the set of primary socio-political, material, and psychological conditions without which constitutionally guaranteed rights lack substance, particularly those pertaining to individual and social fundamentals... which guarantee that the principle of human dignity possesses a determinable content (though not explicitly determined in the abstract constitutional norm expressing it), that it is binding on the public authorities, which cannot deny its existence or fail to ensure its realization, in a sense that this principle carries a weight that imparts it a specific content from which the State cannot be removed'.

We should also allude to the judgment of Suspension of Injunction 228/CE, in 2008, in which Justice Gilmar Mendes, based on the 'existential minimum' of the right to health (mentioning the ADPF 45/DF), partially granted the request — imposing, *in casu*, obligations to do for the Federal Government, as analyzed by Giovanna Malavolta da Silva (2016, p. 30). These examples allow us to visualize the progressive rooting of this principle in the case law of the Brazilian Supreme Court, especially in the 21st century, with the understanding that — if there is a scope to protect this right (the existential minimum) — a proactive stance by the Court in the judicial review of public policies would not be violating the principle of Separation of Powers. This can be seen in the Internal Interlocutory Appeal on the Interlocutory Appeal No. 734.487 (2010), as follows.

> 1. The right to health is an irrevocable constitutional prerogative, guaranteed through the implementation of public policies, imposing on the State the obligation to create objective conditions that allow effective access to such a service. 2. It is possible for the Judiciary to determine the implementation by the State, when it is in default, of constitutionally provided public policies without creating interference in a matter that involves the discretionary power of the Executive. Precedents. 3. Internal Interlocutory appeal dismissed. (Emphasis added).

It is in the same sense that the judgment of the Interlocutory Appeal in Extraordinary Appeal with Interlocutory Appeal 761.127/AP, of 2014, took place. In this case, the State of Amapá, then the appellant, emphasized that 'within its discretionary power and taking into account budgetary limitations, only the Executive Branch [...] can choose where its funds should be spent and in which project, purchase or service it should invest, among the respective priorities'. Despite this, once again the thesis was established that the reserve of the possible finds limitation in the offer of minimum conditions through state obligations; thus justifying proactive judicial intervention, as can be extracted from the vote given by Justice Luís Roberto Barroso (Judge-Rapporteur):

> The intervention of the Judiciary, concerning the implementation of government policies outlined and mandated in the constitutional text, particularly in the area of early childhood education (Quarterly Court Reporter, RTJ 199/1219-1220), aims to counteract the detrimental and harmful effects caused by state omission [...] The reserve of the possible clause — which the Government cannot invoke with the intent of subverting, thwarting or rending impractical the implementation of public policies defined in the Constitution itself — encounters an insurmountable limitation in the constitutional guarantee of the existential minimum, which represents, in the context of our positive system, a direct emanation of the principle of human dignity. (Emphasis added).

Furthermore, in ADPF 347 MC/DF (2015), the Supreme Court recognized the so-called 'unconstitutional state of affairs' (USoA) in Brazil, in view of the situation involving the prison system. In fact, when considering the 'massive and persistent violation of fundamental rights arising from structural flaws and from the failure of public policies', acknowledging such a state of affairs allows, in the words of Justice Marco Aurélio (Judge-Rapporteur), for a rationale to justify a greater intervention by the Judiciary — in light of the State's omission — without that constituting a violation of the principle of the separation of Powers. In the exact terms of the Justice:

> Theoretical controversies are not enough to undermine the conviction that, when the preconditions of a state of unconstitutional affairs are met, the Court can take part, to the appropriate extent, in primarily political decisions without giving rise to any concerns regarding an infringement of the democratic principle and the separation of powers. The profound infringement of fundamental rights, extending to the transgression of human dignity and the existential minimum itself, warrants a more assertive action by the Court. [...] judicial intervention is deemed legitimate at these high levels of state omission amid a situation of widespread violation of fundamental rights. Upon confirming the paralysis of political powers, idealized arguments regarding the democratic principle make little practical sense. (Brazil, 2016, p. 31-32, emphasis added).

It is crucial to emphasize that when the Judiciary intervenes in the sphere of public policies, it entails the imposition of obligations to perform certain actions (and/or not refrain from them). The prominence of the Judiciary in the area of positive rights, considering the need to protect the 'existential minimum', means — as has long been observed (ADPF 45/DF) — the possibility of implementing public policies, in a usurpation of the attributions held by the inert government. In other words, the Brazilian Supreme Court 'has already established the possibility, in emergency cases, for the implementation of public policies by the Judiciary, in face of inertia or sluggishness on the part of the Government, as a measure to ensure fundamental rights', as can be seen in the judgment of the Internal Interlocutory Appeal in Extraordinary Appeal 877.607/MG, of 2017.

As an example, this time in the environmental field, where the recognition of the USoA is also claimed, let us take ADPF 708/DF, whose ruling determined that the Union should 'refrain from failing to operationalize the Climate Fund Program or allocate its resources' (Brazil, 2020, p.4). Similarly, in the vote rendered by the Judge-Rapporteur of ADPF 760/DF, the Federal Government was ordered to formulate and present a plan for the effective implementation of the Action Plan for Deforestation Prevention and Control in the Legal Amazon (PPCDAm), as well as a 'specific plan for the institutional strengthening of Ibama, ICMBio and Funai', with Justice Carmen Lúcia shedding light on how an action of competence not held by the Court (the choice of public policies) can be carried out by the same body:

> It is not up to this Supreme Court to choose the most appropriate public policy to combat illegal fires, deforestation and environmental degradation. However, in the primary role of this Court as guard of the Constitution (STF) and of the rule of environmental law, it is in this Supreme Court's responsibility to ensure compliance with the constitutional order by observing the constitutional principle of prevention for the preservation of a balanced environment and the prohibition of retrogression. (Brazil, 2022, p. 107- 108)

We can observe a consolidated understanding among the courts that the prominence of the Judiciary, exercised under exceptional circumstances and in response

to the paralysis of political powers, does not violate the democratic principle. However, doctrinal criticism on this matter can be summarized in the idea that a mere judicial declaration of respect for the separation of powers is insufficient to prevent the risk of judicial activism. This is due to the fact that, in proactive action, 'judgments are shaped by evaluating, for instance, the cost-benefit considerations on what is best for society, thereby substituting the deontological dimension of law for the gradual logic of "values" (Bahia, 2012, p. 118).

In fact, notwithstanding the concrete benefits arising from the new trend propagated by this phenomenon — here emphasized as a leading role in the implementation of public policies, from the standpoint of the existential minimum — one must pay attention to the fact that, as seen, judicial intervention is no longer adhering to constitutional control in its self-contained form, as it begins to assume an (almost) substitutive role in relation to the Government.

It is known that, in view of the existential minimum, the Judiciary can even impose the obligation on the State to change its fiscal policy in order to obtain new resources (Torres, 1992). Yet, this is not always possible, and the adoption of other measures — of macroeconomic impact, such as decisions involving minimum wages, social security, etc. — can lead to other rights being violated: 'an activism excess in this area, even if very well-intentioned, could ultimately destroy the national economy and, in these crises, the biggest victims are usually and precisely the most vulnerable social segments' (Sarmento, 2016).

Conclusions

In conclusion, the case law of the Brazilian Supreme Court under the prism of the non-obviation of jurisdiction and based on the adduction of the constituent core of the 'existential minimum' has been adhering to a proactive conduct with regard to the fulfillment of rights. In this sphere, judicial discretion is consolidated in the possibility of control and intervention by the Judiciary in the formulation and implementation of public policies, although there is no discussion of the potential this scenario has for an implied usurpation of the powers held by the other branches of Government — which is why this article discusses how it fits in with the concept of "judicial activism".

The prominent role regarding the extreme expansion of decision-making discretion in Brazil can mean an antagonistic movement to the democratic ideal. That is feasible, bearing in mind the intrinsic relationship between this expansion and the principle of independence and harmony involved in the interactions between the Branches of Government. However, it is essential not to overlook the established connection between manifestations of judicial activism and the fulfillment of rights, which is also central to the democratic ideal. For this reason, the need for similar debates in the field is reinforced in order to delve deeper — and more certainly — into the viability of judicial activism in specific cases. Notably, when such a remedy, although laden with contraindications, may represent the only way to achieve urgent solutions to issues not properly handled by those with ordinary competence, urging such considerations to radiate across the scenario involving the fulfillment of rights to services.

In this sense, while the benefits of such exceptionality are recognized, there is a latent risk of institutional dominance by one Branch over the others. Thus, the crux of the matter lies in the logical-conjunctural examination of the fact that the one empowered under the scope of fulfilling rights can, at a given moment, change its *modus operandi*, becoming no longer conditioned to the observance of this initial scope. It is for this reason

that it does not seem reasonable to detract from the risks of an action tangential to that of constitutional competence, focusing solely on the immediate effects of the phenomenon. Rather, it is necessary to envision the possibilities inherent in this stance, considering what has been fundamentally regulated by the Constitution.

As this work does not aim to exhaust discussions on the topic, nor to produce a systematic critique, it is clear that the improvement of academic debates within this context is extremely necessary for a more accurate juridical-conjunctural elucidation. One that emphasizes the democratic ideal, the aforementioned principle of independence and harmony between the Branches, and, concurrently, the need to implement positive rights — demanding, from beginning to end, the primacy of the Constitution.

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MLS – LAW AND INTERNATIONAL POLITICS (MLSLIP)
https://www.mlsjournals.com/MLS-Law-International-Politics
ISSN: 2952-248X

(2024) MLS-Law and International Politics, 3(2), 21-35. doi.org/10.58747/mlslip.v3i2.2860.

THE DECRIMINALIZATION OF SENTIMENTAL ABORTION IN THE PERUVIAN PENAL CODE 2024 DUE TO VIOLATION OF FUNDAMENTAL RIGHTS OF WOMEN

LA DESCRIMINALIZACIÓN DEL ABORTO SENTIMENTAL EN EL CÓDIGO PENAL PERUANO 2024 POR VULNERACIÓN A DERECHOS FUNDAMENTALES EN MUJERES

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Manuscript information:

Received/Recibido: 26/05/2024
Reviewed/Revisado: 19/09/2024
Accepted/Aceptado: 25/09/2024

Keywords:
sentimental abortion, decriminalize, sexual violation, justice.

ABSTRACT

In Peru, women who were sexually violated, and want to have a normal abortion, are prevented by the Peruvian state, charging it as a sentimental abortion, which generates a violation of their fundamental rights. The main objective of this research is to analyze the need for the decriminalization of sentimental abortion in Peru. The quantitative-descriptive method was used, with a cross-sectional and exploratory non-experimental design. The population is made up of 40 lawyers specializing in criminal law from the Judicial Branch of the judicial district of Lambayeque, the sampling was by convenience and the sample was made up of 12 lawyers specializing in Criminal Law. The type of research was: descriptive. The data collection technique was the questionnaire and the survey. And the instruments used were reference sheets, textual and paraphrasing. Regarding the results, it was possible to verify that the criminal type of sentimental abortion can be decriminalized because, according to those surveyed, it transgresses the fundamental rights of the pregnant woman, as the doctrine also mentions the principle of proportionality, which allows more weight to be given to the defense of the rights of the sexually violated woman than that of the conceived. In conclusion, the Peruvian state should speak out and enunciate the law that decriminalizes the criminal type of abortion in the Peruvian penal code, that is, that it be decriminalized from the Peruvian penal code in its article 120, paragraph 1. This type of abortion being thus legal by practicing, and prevents more women victims of sexual abuse from seeing their personal and family development frustrated.

Palabras clave:
aborto sentimental, descriminalizar, violación sexual, justicia.

RESUMEN

En el Perú, las mujeres que fueron violentadas sexualmente, y quieran abortar de forma normal, el estado peruano les impide, imputándosele como un aborto sentimental, la cual genera vulneración a sus derechos fundamentales. La presente investigación tiene como objetivo principal analizar la necesidad de la descriminalización del aborto sentimental en el Perú. Se utilizó el método cuantitativo-descriptivo, con un diseño no experimental

	transversal y exploratorio. La población está constituida por 40 abogados especialistas de derecho penal del Poder Judicial del distrito judicial de Lambayeque, el muestreo fue por conveniencia y la muestra estuvo conformada por 12 abogados especialistas en Derecho Penal. El tipo de investigación fue: descriptivo. La técnica de recolección de datos fueron el fichaje y la encuesta. Y los instrumentos empleados fueron las fichas de referencias, textuales y de parafraseo. En cuanto a los resultados de pudo verificar que se puede descriminalizar el tipo penal de aborto sentimental porque ella según los encuestados, transgrede los derechos fundamentales de la embarazada, como también la doctrina menciona al principio de proporcionalidad, que permite ponderar más la defensa de los derechos de la mujer violentada sexualmente que la del concebido. Concluyendo el estado peruano debería pronunciarse y enunciar la ley que se descriminalice el tipo penal de aborto en el código penal peruano, es decir, que se despenalice del código penal peruano en su artículo120º, inciso 1. Siendo así legal este tipo de aborto practicando, y evita que más mujeres víctimas de abuso sexual vean frustrado su desarrollo personal y familiar.

Introduction

The decriminalization of abortion in the case of pregnancy resulting from rape is one of the most critical and pertinent issues currently being studied in Latin America, from a variety of political, legal and public health perspectives (Bergallo, Jaramillo, & Vaggione, 2018).

In our criminal law, abortion is considered a crime against life, body and health, in all its forms, except therapeutic abortion. However, the controversial aspect of this crime is abortion for rape, in which the woman who authorizes the abortion is punished with a minimum penalty of up to three months' imprisonment. In practice, this has not been effective in addressing the current problem of pregnant rape victims and protecting their fundamental rights to exercise self-determination over their bodies (Valdivia, 2021).

The issue of abortion is highly debated due to its possible sanction, as is the case in most developed countries. In Latin America, several groups are working to declassify this practice from criminal records. According to their arguments, it is unacceptable that a woman who puts herself in danger by entering a clinic for a risky clandestine abortion should have an additional evil imposed on her as a punishment (García, Huamán, & Palomino, 2021)it is also believed that, in abortion cases, the woman receiving the prison sentence suffers significant harm as a result of the uprooting that can occur in the environment (Torres, 2022).

In Peru, all types of abortion are criminalized, except for one, therapeutic abortion. However, there is a type of abortion that even legislators have criminalized and that deserves its rapid decriminalization, since it is violating the fundamental rights of women who were sexually violated, so having a child against their will would violate many constitutional rights. Therefore, thanks to the doctrinal principles of criminal law, we can mention that the Peruvian state has little or no concern to at least put public policies to eradicate violent acts and even worse not to legalize an abortion that clearly transgresses fundamental rights of women. The main objective of this research is to analyze the need to decriminalize sentimental abortion in Peru, since it violates the right to sexual and reproductive freedom, among other fundamental rights of women. Since it is up to her to decide whether or not to interrupt her gestational state as a result of rape, being illegal still only causes women to go to clandestine centers to expose their lives to abortion.

In our country, as in other Latin American countries, there are different perspectives on the nature of the fetus and, therefore, on the legal right protected. The personality of the fetus is constitutionally recognized and in accordance with the Penal Code regulates it, being a subject of law from birth (Belan, Nalvarte, & Chambilla, 2024).

Abortion for sentimental reasons is prohibited in Peru, according to article 120 of the Penal Code, paragraph 1. “If the pregnancy is the result of rape outside marriage or non-consensual artificial insemination occurring outside marriage, it shall be punishable by a term of imprisonment not exceeding three months.” (Salinas, 2019).

Obviously, there are many reasons why a woman decides to voluntarily terminate her pregnancy covertly. However, the most important reason, which should not be ignored and which seeks the understanding of both society and the State, is that this constitutes a violation of their sexual freedom, which should not be punished by our criminal law. It also seeks to ensure that all women have access to this right without discrimination, so that they can pursue their life projects in a common and harmonious manner.

There is evidence of a high rate of clandestine early terminations caused by aggression, and in general terms, this hostility begins with psychological violence.

Therefore, the non-decriminalization of abortion in cases of sexual violence revolves around the general right of women and the well-being of conception, which also causes a cooperative connection with psychological violence... (Burga, 2021).

Deliberate interference with pregnancy is designed to defend the sexual and regenerative privileges of women who are in a developmental phase due to sexual assault, through the right to opportunity and conceptive independence they have, also ensuring the security of their main fundamental rights, and thus keeping them away from any obstruction by the State (Mateo, 2021).

The elimination of fetal extraction in cases of rape has a significant impact on the dignity of women, as it has been shown that its practice is often completely justified, as long as the strict medical and legal obstacles that still do not allow and eliminate the guilty idea of early extraction are overcome. As a result, the essential freedoms of women who have survived sexual abuse are adversely impacted (Reyes, 2020).

In order to consider the protected rights of women who have survived rape, Article 120°, paragraph 1 of the Peruvian penal code is examined as an exemption from inapplicability. On the other hand, it was shown that when abortion is caused by sexual violence, the right to abortion should be granted on an individual basis to respect women's dignity and freedom (Rivas, 2021).

According to Valdivia (2021), the elimination of the crime of sentimental abortion has a significant impact on the decrease of voluntary abortion. As a result, we have been able to infer that the main effect that such decriminalization would have would be the reduction of mortality associated with unsafe abortion, which was shared by 90% of the judicial operators.

As for the legal basis for banning sentimental abortion, freedom is a fundamental and necessary value for the democratic system. Moreover, it is an essential subjective right that translates into a series of "specific freedoms" recognized in the Constitution and in the International Covenants on Human Rights. Guevara (2020) affirmed that sexual rights is a fundamental right when it comes to sexual and reproductive rights, and that it implies a responsible, full and safe sexual life, free from disease, injury, coercion and violence. Regardless of their reproductive status, this right applies to each and every one.

Cáceres and Gorbeña (2017). affirmed that human dignity is a constitutional principle of human rights recognized by the Constitution. Therefore, in this understanding of human dignity, a person must be respected and valued both by him/herself and by others. This implies that all people should be equal and enjoy the fundamental rights to which they are entitled. According to Mesías (2017)the fundamental basis of the system of rights and guarantees established in the Constitution is dignity. The legal system is considered as a fundamental basis from which "the other rights recognized in the magna attica acquired legal effectiveness".

The principle of proportionality is a constitutional principle whose purpose is to measure and control the interference of the punitive power of the State in the fundamental rights of the human person so that it meets certain criteria of adequacy, coherence, necessity and balance between the lawful purpose. Which is pursued with such interference and the affected legal goods, being that this should be compatible with (Pérez & Cabrejo, 2021).

Therefore, the Principle of Proportionality is essential to assess the constitutionality of the rights in dispute in the event that the public authorities attempt to limit a fundamental right.

The objectives of this article are: to analyze the need to decriminalize sentimental abortion in the Peruvian Penal Code 2024; to determine the violation of women's right to

freedom due to sentimental abortion; to evaluate the transgression of women's right to dignity due to rape; to demonstrate the principle of proportionality as a doctrinal basis for decriminalizing abortion due to rape.

Method

The design was non-experimental, exploratory and descriptive, so that this type of study is not constructed on situations that are fictitious, but rather on situations that already exist, and that are not intentionally provoked by the researcher. In this type of research, phenomena are observed as they occur in reality, which is achieved without deliberately manipulating variables (Arispe, 2020).

In this study its approach became quantitative, being the method to be used in this article, from which quantitative data are collected and analyzed in the variables and where the properties and quantitative phenomena are studied, being helped by a measurement instrument (Arias, 2021).

According to Robles (2019) population is that grouping of subjects that may share similar functions. For the present research, the population was comprised of 12 teachers from the Judicial Branch of Lambayeque, who were involved through non-probabilistic convenience sampling, due to their easy accessibility, coming from this institution.

The instrument used to measure the objectives in the form of questions was the questionnaire, where, according to the author Saras (2023) became a list of questions or items to be processed and analyzed. It will have 4 items, which will be answered by legal operators of criminal law.

The survey was processed by means of descriptive and inferential analysis, using the IBM SPSS version 25 tool. This will be expressed in tables describing the perceptions in percentages of the respondents in order to have a numerical count of the questions asked.

Results

After analyzing the literature from the different bibliographic sources, we proceeded to demonstrate how the type of sentimental abortion still has a negative impact in our country, and for this we had to develop a series of objectives which correspond to the questions that we set out, all with the aim that the findings correspond to each objective set out in the introduction.

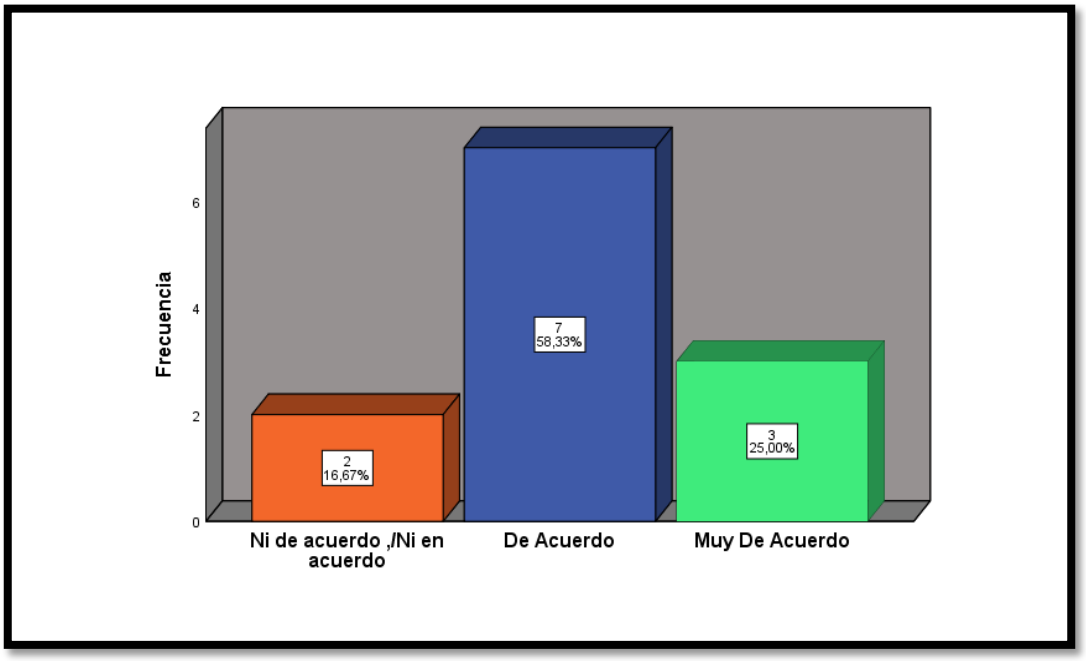
The following are the percentage levels for each of the questions, which were then analyzed according to the order of their objectives:

Table 1
Need for decriminalization of sentimental abortion in the Peruvian penal code 2024

Level	F	%
Neither in agreement, /nor in agreement	2	16.67%
Agreed	7	58.33%
Strongly Agree	3	25%
Total	12	100%

Note. Results for sentimental abortion not to be illicit in Peru (2024)

Figure 1
Need to criminalize abortion sentimental



The results of Table 1 show that there is a need to decriminalize the penal type of sentimental abortion in the Peruvian penal code, since a majority of 58.33% mentioned that they agree, while 25% mentioned that they strongly agree and 16.67% mentioned that they neither agree nor agree.

Table 2
Infringement of a woman's right to liberty due to sentimental abortion

Level	F	%
Neither in agreement, /nor in agreement	3	25.0%
Agreed	8	66.67%
Strongly Agree	1	8.33%
Total	12	100%

Note. Respondents' assessment of whether there is a violation of a woman's right to freedom due to sentimental abortions (2024)

Figure 2
Sentimental abortion and violation of a woman's right to liberty

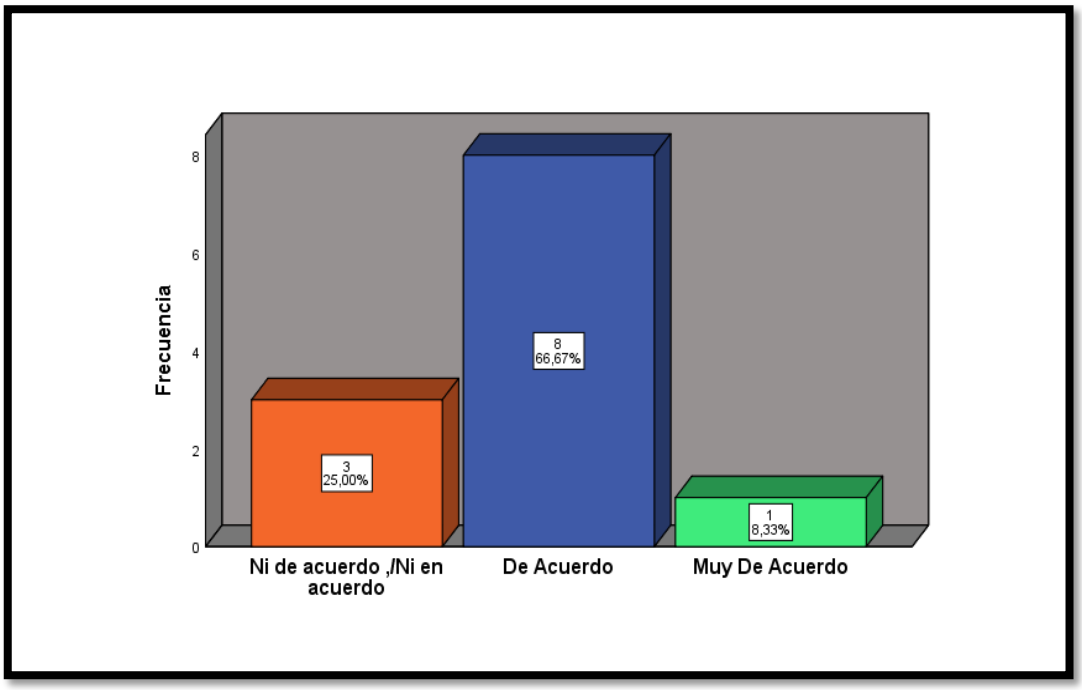


Table 2 shows that of the respondents to whom the questionnaire instrument was applied, 66.7% agreed, 25% neither agreed nor disagreed, and 8.33% mentioned that they strongly agreed, which shows that most of them agreed.

Table 3
Violation of a woman's right to dignity as a result of rape

Level	F	%
Neither in agreement, /nor in agreement	2	16.67%
Agreed	7	58.33%
Strongly Agree	3	25.0%
Total	12	100%

Note. Evaluation of lawyers on the perception of rape cases and the affectation of women's right to dignity (2024)

Figure 3
Violation of the right to dignity of a sexually violated woman

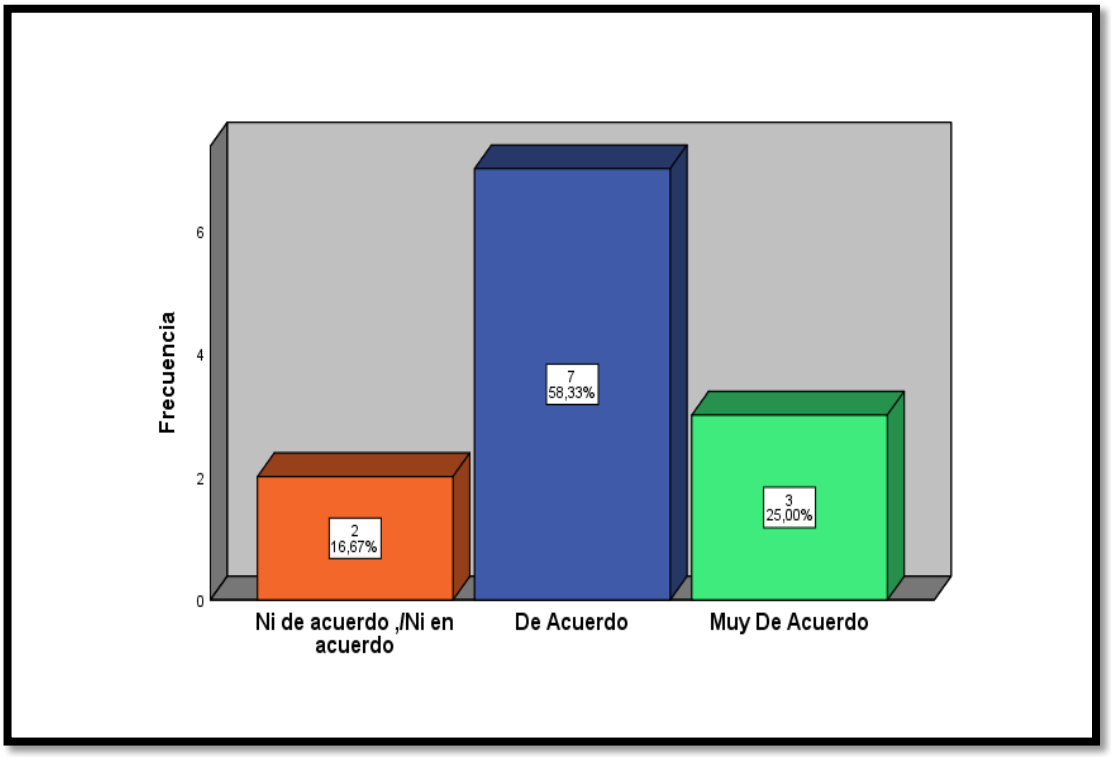


Table 3 shows that of the respondents to whom the questionnaire instrument was applied, those who answered whether sentimental abortion violates a woman's right to dignity, 58.33% said they agreed, 25% strongly agreed, and 16.67% said they neither agreed nor disagreed, which shows that most of them agreed.

Table 4
Demonstrate the principle of proportionality as a doctrinal basis for decriminalizing abortion for rape

Level	F	%
Neither in agreement, /nor in agreement	4	33.33%
Agreed	7	58.33%
Strongly Agree	1	8.33%
Total	12	100%

Note. Answers for the principle of proportionality to serve as doctrinal protection to decriminalize abortion for rape (2024)

Figure 4

Principle of proportionality and doctrine for non-criminalization of abortion due to rape

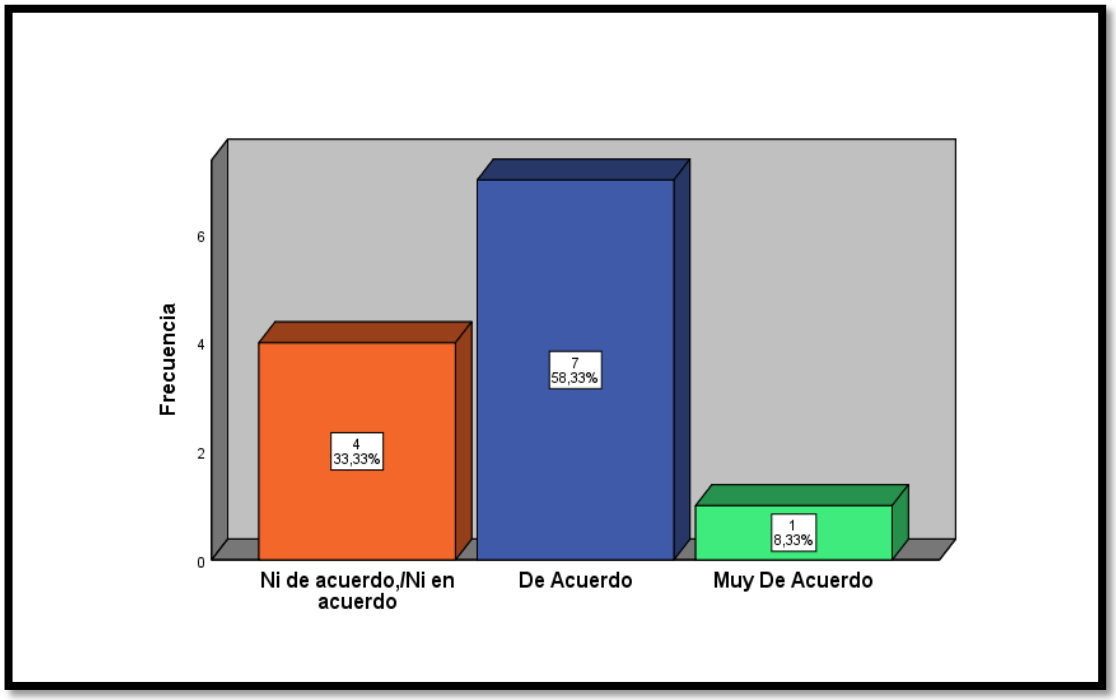


Table 4 shows the opinion of the legal operators as to whether the principle of proportionality serves as a doctrinal basis for not criminalizing abortion for rape, with 33.33% neither agreeing nor agreeing, 58.33% agreeing and 8.33% strongly disagreeing. This demonstrates that the vast majority of people argue that it is accepted that the principle of proportionality contributes a great deal to the doctrinal support that sentimental abortion is not illegal.

Discussion

Analyzing the need to decriminalize sentimental abortion in the Peruvian penal code 2024, according to the findings found in the survey applied in Table 1, the results showed the need to decriminalize the criminal type of sentimental abortion in the Peruvian penal code, since the majority of the common denominator of the respondents in percentage to 58.33% mentioned that they agree, taking into consideration that it is a type of abortion that has been wanted to be decriminalized for many years and it is still latent in the legal operators to pretend that it is the state who assumes the role of being able to decriminalize this criminal offense so that many women victims of sexual aggression can decide to have an abortion as a way that it is not clandestine and that it does not affect their lives.

Therefore, decriminalizing abortion, as mentioned by Bergallo et al. (2018) in the case of pregnancy resulting from rape, would be one of the most problematic issues worldwide, from the political, legal and public health context. In Latin American countries, they join efforts so that the states can make the practice of this type of abortion relict, not being reasonable to impose a woman who enters a clandestine health center to put her life at risk as such.

These results are related to what was mentioned by the author Rivas (2021), when he analyzed numeral 1 of article 120° of the Peruvian punitive code as an exemption of inapplicability, in order to consider the protected rights of women survivors of rape, and on the other hand, individually the right to abortion should be given, when it is caused by sexual violence, in order to respect the dignity and freedom of women. Also according to author Valdivia (2021), decriminalization of sentimental abortion has a significant impact on the reduction of voluntary abortions. As such, their research has shown that the main effect that such decriminalization would have is the reduction of mortality linked to unsafe abortion.

It can be corroborated in this objective, both in the results and the theory found that the criminal type of sentimental abortion can be decriminalized, since this problem would not only be occurring in our country, but also throughout Latin America, which is why the states should prioritize the physical and mental health of women who were sexually violated and who want to desist from having a child because of the psychological sequels that were left to them.

The Peruvian state has for a long time regulated the penal type of abortion for sexual violation, which the legislator chose to put it this way to give it a less harmful semantics, when in reality it should have been called abortion for sexual violation and not "sentimental" as it is until today in the Peruvian penal code, implying that it would be minimizing the sexual violence that the woman had without her consent to procreate a fetus that was not by natural law of love or cohabitation with her partner or spouse. It is therefore crucial that legislators decriminalize this crime as a label of "criminal offense," when it turns out that the only crime here is the violation of the rights of women who were sexually assaulted without their consent, and have to give birth normally as any person or woman who has a family, thus generating an exception to these cases. Consequently, they themselves would be violating the right to health, because many of them, as this conduct is punishable in our criminal law, seek clandestine centers to perform abortions and thus escape criminal liability, putting their health and even their lives at risk, and generating in the rape victim behaviors that she does not want to choose, but she has to do it to safeguard her dignity and integrity.

It was determined that the right to freedom of women is violated by sentimental abortion, where the common denominator of the results found in the respondents was 66.7%, who mentioned that they agreed, so with this suitable support from the majority of law operators who mentioned that they are accepting that if abortion for rape is still legal, it would have the effect of violating the freedom of women.

One of the many reasons that a woman may decide not to become pregnant is that she has been sexually assaulted, since it is obvious that a woman may decide to terminate her pregnancy, for which the state should not charge her because her psychological suffering as a person is at stake. Before them it is necessary to invoke the Peruvian Magna Carta, where freedom is a right inherent to the person and has the same degree as the right to life, resulting prudent to consider that for this type of affectation to the freedom of the sexually violated woman should be considered more than the life of the new being in formation.

Therefore, this second objective would be related to what Sanchez mentioned with respect to the legal grounds for decriminalizing sentimental abortion: freedom is an essential and indispensable value of the democratic system, and at the same time a fundamental subjective right, which translates into a set of "specific freedoms enshrined in the constitutional norms and in the International Covenants on Human Rights." Guevara (2020) also mentioned that sexual rights are a fundamental right, which implies

a responsible, full, safe and free sexual life, i.e., women have the right to have freedom of action in their bodies.

Freedom in its different dimensions has a common goal, which is respect for the decision that a person makes for himself and for others, provided that the latter does not violate the rights of the community of persons and the state. For this reason, as long as a person becomes free in his personal decision about himself and as a unitary person, he should not have so much injury to get to impute a penalty, since in a state of law criminal or unlawful conduct should be considered for serious crimes that affect individuals or the community, we see daily robberies, deaths, extortion, illicit enrichment, embezzlement of money by public officials, extortion, illicit enrichment, embezzlement of money by public officials, in these examples cited we can assert that if there are reprehensible behaviors, but for a crime that was first a crime for the person who was sexually violated, you can not be charged with wanting to desist from having the fetus, when this "was sexually abused."

It is the state who finally has to put the weighting and study the issue of the many women who do not want to have the fetuses for reasons of sexual violence and come to weigh whether the right to life is absolute or relative, a question that the Constitutional Court has always mentioned in its many resolutions, which states that all rights are of equal importance, not even the right to life is an absolute right. Aware of this, for certain cases, the rights must be weighed and seen according to the circumstances and the aggravated person, to be able to accept that, for this type of problem, the woman who was sexually assaulted must opt for the right to freedom in being free to have or not the being that is forming inside her and that this "freedom to decide" is above the right to life of the conceived.

The transgression of the woman's right to dignity due to sexual violation was evaluated, being that the majority of lawyers to whom the survey was applied mention 58.33% who agree, knowing that dignity is the value of respect that emanates from the political constitution of Peru in its citizens, is that according to the statement of Salinas (2019), in maintaining that in this understanding of human dignity, a person must be respected and valued both by himself and by others. This makes the point that people should enjoy their rights in the same way as others and that they should never be violated or mistreated because dignity is the supreme goal of a society.

Therefore, the third objective of this research is related to that mentioned by Cáceres and Gorbeña (2017): "Human dignity is conceived as a constitutional principle of human rights, which is recognized by the Constitution". Likewise, Reyes (2020) mentions, the decriminalization of fetal extraction in cases of rape emphatically affects the dignity of women, as it has been shown how it tends to be absolutely reasonable, assuming that we overcome strict obstructions, clinical and legal obstructions that so far do not allow us to remove the guilty idea of early termination, thus influencing the key freedoms of women survivors of sexual abuse, who subsequently resort to illegal clinical foci, where there are experts who perform fetal extractions, thus generating more danger to their lives.

Dignity is a fundamental right that has always been contemplated in the constitution as the supreme goal of society and the state. It is therefore contradictory that at the present time it has not been possible to legalize the penal type of sentimental abortion, there being a contradiction between what is mentioned in the Constitution and the penal code. Therefore, the state should be concerned about the problems that this type of crime is still illegal, such as women who have been raped going to unhealthy places, thus putting their health at risk. Therefore, this analysis defends the position of justifying

the elimination or early extraction of the fetus in cases of impact on the dignity of women, where it is precisely in the case of sexual violations committed against them, and this is related to what was mentioned by (Reyes, 2020), when he mentioned that there is justification for abortion whenever the dignity of women is seriously violated.

In order to demonstrate the principle of proportionality as a doctrinal basis for decriminalizing abortion for rape, a survey was conducted in which this fourth objective yielded 58.33% of lawyers agreeing, which is clear evidence that the majority of legal operators are aware that the principle of proportionality serves to weigh the most important right to be protected, the most important of which is that of the mother. For this reason, this objective would be related to that mentioned by Pérez and Cabrejo (2021). The principle of proportionality is a principle of constitutional nature that aims to measure and control the interference of the punitive power of the State on the fundamental rights of the human person so that this interference responds to certain criteria of adequacy, coherence, necessity and balance between the lawful purpose pursued with such interference and the legal assets affected, being that this should be compatible with the rules of a constitutional nature.

The principle of proportionality is a source of criminal law which comes to weigh the right that is more important to protect, which is why legislators at some point may see the dilemma that exists in being able to protect the right of the sexually violated woman or the right to life of the fetus. Therefore, this principle derived from the doctrine will serve to weigh more important rights such as dignity, freedom, reproductive sexuality and psychological and mental health of women against the right to life of the conceived child, which is why it is necessary that in future research it will serve as a legal basis to carry out the legalization of sentimental abortion.

Conclusions

Analyzing the need to decriminalize the criminal type of sentimental abortion in the Peruvian penal code 2024, from the finding allowed in the first objective we can say that the legal operators could realize that the question clearly formulated is suitable to support that as soon as possible the Peruvian state should decriminalize the criminal type of abortion in paragraph 1 of Article 120 of the Peruvian penal code, since this type of abortion is only violating fundamental rights in sexually violated women, so we want its prompt decriminalization. Therefore, in our country there is an urgent need for legislators to enact the decriminalization of the criminal offense of sentimental abortion, since this seems to give it a less harmful figure that should be called abortion due to sexual violence. This suggests that the congressmen who dictate the laws in the congress do not care about the psychological pictures that a sexually violated woman experienced, when she evokes the hard moments she had to live, and the state far from compensating this damage by abolishing this criminal offense, continues to have it to this day under the figure of sentimental abortion.

We came to determine the violation of women's right to freedom due to sentimental abortion, by which we saw that the majority of legal operators agreed that this type of abortion, which is still regulated in our criminal legal system, violates a fundamental right to freedom regulated in our political constitution, since it transgresses the right to decide what is best for a woman to decide about her body, in order to protect her integrity and emotional health. As a result, the right to freedom to choose an abortion

in cases of sexual abuse committed against women should not be imputable, since the right to freedom is as important as the right to life.

Regarding the right of the woman's dignity that is violated due to rape, the majority of lawyers to whom the survey was applied mentioned 58.33% agree, being evident favoritism that its regulation even in the Peruvian penal code is only causing transgression to dignity, since when suffering a rape, she has to live with the conceived that she carries in her womb, causing devastating psychological sensations knowing that it is only a product of sexual violence, however, for the Peruvian state, having an abortion will change the woman into a criminal offender, not realizing the legislators that this type of abortion only undermines the protection of women in terms of the right to their dignity regulated in our constitution, being the political constitution the pillar where our rights as guarantees rest, the state must ensure the respect and protection of these rights because this is what our constitution emanates from.

The principle of proportionality has great doctrinal repercussions in order to decriminalize the type of sentimental abortion, since it helps to weigh which right should take precedence, the right of the mother in terms of her reproductive health, dignity, emotional and psychological health or the right of the conceived in terms of her life. Therefore, it is clear that the principle of proportionality makes us understand that the fundamental rights of the woman victim of rape are above the rights of the child. Thus, this doctrinal position must be analyzed by legislators in order to attribute that the injury must be imputed as long as it affects the interests of persons or society, not always resulting in the imputation of crimes that it is known that first were the subjects who were violated against their will and also that the many rights violated by a sexually assaulted woman are in a higher hierarchy than those of a conceived child.

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MLS – LAW AND INTERNATIONAL POLITICS (MLSLIP)
https://www.mlsjournals.com/MLS-Law-International-Politics
ISSN: 2952-248X

(2024) MLS-Law and International Politics, 3(2), 36-52. doi.org/10.58747/mlslip.v3i2.2825.

STATE OF THE ART OF RIGHT TO PROTEST OR MANIFESTATION
ESTADO DEL ARTE DEL DERECHO A LA PROTESTA O MANIFESTACIÓN PACÍFICA

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Información del manuscrito:

Recibido/Received: 10/05/2024
Revisado/Reviewed: 14/11/2024
Aceptado/Accepted: 26/11/2024

ABSTRACT

The state of the art of the right to demonstrate is presented, in consideration of the international system, the subsystems of protection of human rights and the protection of fundamental rights established in the national law, the general objective is: to know the state of the art of the protection of the right to peaceful demonstration for the defense of democracy, for the effect in qualitative form is used the thesis, the antithesis, and the synthesis of the dialectic method, international entities are sought and by region, which protect human rights, in particular, the right to peaceful protest or demonstration is selected, thus resulting in the existence of international entities that protect human rights and the human right to demonstrate or protest, with exceptions of countries that limit it through internal regulation, a situation based on the principle of non-intervention. The right to demonstrate or protest is supported by international instruments signed by the international actors that make up the human rights protection system. In conclusion, the protection of human rights is carried out through the universal system, regional systems for the protection of human rights that sanction states that disrespect the right to protest or peaceful demonstration, it is established in the fundamental law in a state in which the division of government powers is effective.

Keywords:
human rights, manifestation, protest, protection

RESUMEN

Se presenta el estado del arte del derecho a manifestar, en consideración al sistema internacional, a los subsistemas de protección de los derechos humanos y a la protección de los derechos fundamentales establecidos en la ley nacional, el objetivo general es: conocer el estado del arte de la protección del derecho a la manifestación pacífica para defensa de la democracia, para el efecto en forma cualitativa se usa la tesis, la antítesis, y la síntesis del método dialéctico, se buscan entidades internacionales y por región, que protegen los derechos humanos, en particular se selecciona el derecho a la protesta o manifestación pacífica, así, resulta en la existencias de entidades internacionales que protegen los derechos humanos y el derecho humano a manifestar o protestar, con excepciones de países que lo limitan por medio de la regulación interna, situación fundamentada en el principio de no intervención. El derecho a manifestar o a protestar se encuentra respaldado por

Palabras clave:
derechos humanos, manifestación, protesta, protección.

	instrumentos internacionales signados por los actores internaciones que conforman el sistema de protección de los derechos humanos. En conclusión, la protección de los derechos humanos se realiza a través del sistema universal, de los sistemas regionales de protección de los derechos humanos que sancionan a los estados que irrespetan el derecho a la protesta o de manifestación pacífica, se encuentra establecido en la ley fundamental en un estado en el que la división de poderes del gobierno es efectiva.

Introduction

The study is made in general terms on the regional human rights systems, which integrate the international human rights system at the global level, with particular reference to the human right to protest.

The state of the art of the right to demonstrate or protest at the international level includes documents related to the statutes and treaties that make up the international system, to the regional subsystems for the protection of human rights, and to the protection of fundamental rights, in particular the right to peaceful protest or demonstration.

Within the international system there are regional systems, which include Europe, America, Africa, Asia, the Arab League, and Oceania, depending on the geographical area, in order to guarantee human rights.

The study is elaborated with the purpose of knowing the organizations of public or private character that are dedicated to the protection of the right to protest or peaceful demonstration as part of the defense of the human rights of the population, its basis in the international treaties, whose members have signed and ratified them and integrate the respective international or regional system, and in the statutes of the international organizations.

The present research is of a qualitative type. In order to know the situation of the protection of the guarantees of the human being, the information of interest is obtained from documentary sources, which include digital documents, statutes of the international entities that are dedicated to protecting the rights of man, and related publications and research.

The dialectic method is used in the study, which allows establishing an argument derived from the contrast of two contradicting arguments. In consideration of the information obtained, the arguments are presented for comparison and synthesis.

The international instruments and the statutes of the entities are obtained through the Internet, in the pages of the international and regional organizations that protect the rights of the human being, in particular, the right to protest or peaceful demonstration, in democratic countries with the division of powers that is applied without authoritarianism in reality. The compilation of the information is elaborated in an office automation template, in which the statute, the international instrument, the organization, and the corresponding region are noted, as well as the research of interest for consultation and references.

As a result of the study, it is observed that there are countries that limit respect for human rights, as well as the right to peaceful protest or demonstration, by means of internal regulation, usually through norms established in their fundamental law, due to the principle of non-intervention. The expression fundamental law, political constitution, or national law in this article refers generally to the internal regulation of each country or state, as an actor in international society.

According to Palacios Peñafiel and Villacrés López (2024, p. 1287), the right to protest or demonstrate peacefully is supported by international instruments signed by the international actors that make up the human rights protection system.

The aforementioned rights are protected through the universal system, the regional human rights protection systems that sanction states that,

in general, they disrespect human rights, in particular the affectation of the right to protest or peaceful demonstration, which is usually established within the fundamental rights set forth in the national constitution whose precepts are applied to reality, without justifying the totalitarian actions of the elite in power.

Estado del arte del derecho a la protesta o manifestación pacífica

The Bill of Rights of February 13, 1689 issued by the "Lords spiritual and temporal and commons" in the kingdom of England, in numeral V prescribes: "That it is a right of subjects to petition the King, any imprisonment or prosecution of petitioners being unlawful," while in numeral IX it states: "That the freedoms of speech, discussion and action in Parliament cannot be judged or investigated by any Court other than Parliament."

The manifestations of protest of the inhabitants of a state have happened in the history of humanity in the USA, derived from the Declaration of Virginia of June 12, 1776, in the USA, in the numeral I (*Declaration of Virginia*, 1776, numeral I) it is declared:

> That all men are by nature equally free and independent and have certain innate rights that, when they enter into the state of society, they cannot deprive or possess for their posterity by any compact, namely: the enjoyment of life and liberty, with the means of acquiring and possessing property and of seeking to obtain happiness and security

Section XII of the Declaration of Virginia states: "That freedom of the press is one of the great bulwarks of liberty and can never be restricted, except by despotic governments." (*Declaration of Virginia*, 1776, paragraph XII)

Later, the French Revolution of 1789 led to the Declaration of the Rights of Man and of the Citizen of August 26, 1789, Article 1 of which establishes the following: "Men are born and remain free and equal in rights. Social distinctions can only be based on common utility. (Declaration of Man and the Citizen, 1789), Article 10 of the aforementioned declaration states that "No man shall be disturbed on account of his opinions, nor even on account of his religious ideas, provided that by manifesting them he does not cause any disturbance of the public order established by law," and the article refers to the freedom of expression of thought and opinion.

In the Declaration of the Rights of Man and of the Citizen (1789), article 2 is constituted: "The purpose of all political association is the preservation of the natural and imprescriptible rights of man, those rights being liberty, property, security, and resistance to oppression," while Article 11 states: "... every citizen may speak, write, and publish freely, except when he has to answer for the abuse of this freedom in cases determined by law." Article 18 regulates the right to freedom of thought, Article 19 regulates freedom of opinion and expression, Article 20 declares the right to freedom of assembly and association, and Article 28 regulates that "everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized."

The Universal Declaration of Human Rights, according to resolution 217 (III), was proclaimed by the General Assembly of the United Nations in Paris on December 10, 1948, whose preamble mentions that respect for human rights and freedoms should be promoted at the national and international levels; its recognition is universal. The United Nations (UN), (sf) informs that "the Declaration

establishes, for the first time, the fundamental human rights that must be protected worldwide and has been translated into more than 500 languages."

Regarding the term protest or demonstration, the dictionary of the Royal Spanish Academy states that to manifest is to take part in a public demonstration; it is synonymous with protest.

Peaceful demonstration in the sphere of human rights is a human right of the citizen in any democratic state, whose sovereignty rests with the people.

According to the author Lanza (2019, p. 5), the protest or peaceful demonstration, individually or in groups, is "aimed at expressing ideas, visions, or values of dissent, opposition, denunciation, or vindication." Protest is related to "the promotion and defense of democracy," and from the human rights approach, it makes use of "the right to freedom of expression, the right to assembly, and the right to protest, citing the IACHR, which considers other forms such as blockades, recreational activities, physical activity, art, traditions, uses, and customs."

Authors Almeida and Cordero Ulate (2017, p. 14) explain that in Latin America there have been protests in democratic environments; thus, "indigenous communities have been key in Bolivia, Colombia, Ecuador, Guatemala, Honduras, Panama, and Peru."

The United Nations (UN) (2012, p. 5) on the rights to assembly and association notes that they are a means for the exercise of rights in the different areas in which human beings are involved: "Freedom of peaceful assembly and of association are a valuable indicator of the extent to which states respect the enjoyment of many other human rights."

Human rights have been the subject of treaties and conventions, and the Universal Declaration of Human Rights recognizes the right to peaceful assembly and association. In democratic states, the right to peaceful demonstration is included in national regulations; its protection is an activity in accordance with treaties, laws, and legal institutions.

Entities that Protect Human Rights at the Global Level

Human rights are protected in the countries of the world by human rights entities or organizations at the national and international levels, which make up the international system that protects them, and the regional systems made up of organizations created and operating in the different regions of the world.

The United Nations (UN) is an international actor that protects human rights through international treaties in member countries that have signed and ratified them in accordance with established procedures.

ccording to Article 92 of the Charter of the United Nations, with respect to the International Court of Justice, it institutes: "It shall be the principal judicial organ of the United Nations; it shall function in accordance with the annexed Statute, which is based on that of the Permanent Court of International Justice and which forms an integral part of this Charter."

The Human Rights Council was created in the General Assembly of the United Nations (UN), according to resolution 60/1 of September 6, 2005. In paragraph 158 of the resolution, it states: "The Council shall be responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all persons, without distinction of any kind and in a fair and equal manner." The Human Rights Council replaces the Commission on Human Rights, which oversees the protection of human rights in national and international contexts.

The International Labor Organization (ILO) was created in 1919; its content is found in part XII of the Treaty of Versailles in sections 1 and 2, articles 385 to 427. Through the ILO, labor rights are promoted in accordance with the agreements signed and ratified by the member states of the world, with the idea of achieving peace with social justice.

The World Health Organization (WHO) was established in New York, signed "on July 22, 1946, effective as of April 7, 1948," with the purpose of protecting the health conditions of the population against endemics and pandemics and to improve preventive, curative, and palliative activities for the human being.

The United Nations Educational, Scientific and Cultural Organization (UNESCO) was established in London in 1945 and came into force in 1948. It focuses on human rights, as in relation to the educational, scientific, and cultural fields, in order to promote progress in the living standards of human beings in different social strata. Among the related conventions is the Universal Convention on Copyright in 1952.

Amnesty International is an independent organization based in London. Its purpose is to monitor the respect and protection of human rights in the world. It was founded in 1961.

Human Rights Watch is an independent organization, founded in 1998, with roles in research on human rights and human rights violations around the world. This entity protects and promotes respect for human rights and suggests law proposals to improve individual guarantees.

On the other hand, there is the figure of the ombudsman, which Rodriguez (2006, p. 18) explains is an institution that protects people against abuses or arbitrary acts of the public administration that may violate their fundamental rights and guarantees. It only suggests or recommends when there are violations of human rights to put an end to the lack of respect for fundamental rights. According to the author, it was in "Sweden in the 16th century where the figure of the Ombudsman was born with its current characteristics (institutionalized in 1809)," and during the year "1713, King Charles XII appointed the first Supreme Ombudsman." The Ombusman inspected the jurisdictional organs, tribunals or courts, and expressed to the monarchic authority the abnormal situations he found in the application of the law.

The subsystems of protection of human rights are integrated organizations according to the region: ASEAN in Asia, the Arab League in Arab countries, the African League in Africa, the Organization of American States in America, and in Europe "the Convention for the Protection of Human Rights and Fundamental Freedoms" was created; in Oceania there are "the Australian Human Rights Commission and the New Zealand Human Rights Commission."

Asia

Through General Assembly resolution 48/141 of December 20, 1993, the "United Nations High Commissioner for Human Rights in Asia" was created, the Office of the United Nations High Commissioner for Human Rights (sf) states that "The Regional Office for Central Asia (ROCA) of the United Nations High Commissioner for Human Rights was established in 2008 in Bishkek (Kyrgyzstan)" and deals with the protection and promotion of human rights in the countries of Central Asia.

In the Bangkok Declaration of August 8, 1867, the Association of Southeast Asian Nations was created in English: Association for Regional Cooperation among the countries of South-East Asia, known as the Association of South-East Asia (ASEAN), the Association of South-East Asian Nations, the

the secretariat is located in Jakarta, Indonesia, the treaty members are the Republic of Indonesia, Malaysia, the Philippines, the Republic of Singapore, the Kingdom of Thailand, Brunei, Vietnam, Laos, Myanmar, and Cambodia.

For Lamarque (2021, p. 52), "ASEAN reformed itself to adapt to new circumstances and challenges. This led to the creation of instruments and mechanisms for the protection of human rights, such as the IAHRS and the Declaration of Human Rights." In 2009, the Intergovernmental Commission on Human Rights was created; in 2010, the Commission for the Promotion and Protection of the Rights of Women and Children was created; in 2012, the Declaration of Human Rights in Cambodia was issued.

According to Lamarque (2201, p. 58), the ASEAN human rights system is limited by the principle of non-intervention, so that the agreements are conditioned to the requirements of the local government, which includes the Commission on Human Rights with oversight functions in this area.

Fraga Martell (2024, pp. 62-63) narrates that "on April 26, 1996, the Shanghai Group emerged as a forum for dialogue," then, in Shanghai on June 15, 2001, the Shanghai Cooperation Organization (SCO) was established (Declaration on the establishment of the Shanghai Cooperation Organization), with the purpose of having good relations and cooperation. The member states are Russia, the People's Republic of China, Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan, India, and Pakistan.

Arab Countries

The Arab League was founded in 1945 to cooperate among the Arab countries that signed the charter. In 2004, the Arab Charter on Human Rights was issued, which states the human rights guarantees in accordance with the principles of the Charter of the United Nations and the Universal Declaration of Human Rights and the Declaration of Human Rights in Islam.

Africa

The African Union is an international organization that includes within its activities, promotion and protection of human rights in cooperation with the African Commission on Human Rights.

The African Charter on Human and Peoples' Rights was adopted on July 27, 1981, in Nairobi, Kenya, and declares the duties and rights of the individual. In Chapter I of Part II, the African Commission on Human and Peoples' Rights is created, and in Article 45 of the aforementioned Charter, it is established that the Commission promotes human and peoples' rights, thus guaranteeing the protection of such rights.

Cartes Rodriguez (2017, p. 253) evidences that in 1998 the Protocol to the African Charter was adopted, leading to the establishment of an African Court of Human and Peoples' Rights. To protect them, the court in question hears and resolves; its resolutions are binding on member states.

America

The Organization of American States (OAS), according to Article 1 of the Charter, is a regional organization to achieve order, peace, and justice. The charter was signed in 1948 in Bogota, Colombia, and was amended by the protocols of Buenos Aires in 1967, Cartagena de Indias in 1985, Washington in 1992, and Managua in 1993.

The Inter-American Commission on Human Rights (IACHR) was created in accordance with Chapter XV of the Charter of the Organization of American States, Article 107,

standard: "shall have, as its principal function, to promote the observance and defense of human rights and to serve as an advisory body to the Organization in this field."

The Statute of the Inter-American Court of Human Rights (IACHR) was approved in La Paz, Bolivia. Article 1 states that "...it is an autonomous judicial institution whose objective is the application and interpretation of the American Convention on Human Rights.

The Inter-American Court of Human Rights (IACHR) exercises its functions in accordance with the provisions of the aforementioned Convention and the present Statute." Article 2 states that it has a jurisdictional function and a consultative function.

The American Convention on Human Rights (ACHR) has been in force since 1978. Part I establishes the rights and duties that are protected, with attention to its main function, according to Article 41, which is to "...promote the observance and defense of human rights..."

Article 15 of the American Convention on Human Rights (ACHR) recognizes the right to peaceful assembly, Article 16 establishes freedom of association, and Article 23 of the same legal body establishes political rights, including the right to elect and be elected.

Europa

On November 4, 1950, the member countries signed the Convention for the Protection of Human Rights and Fundamental Freedoms. The text is divided into three titles: Title I contains the rights and freedoms; Article 9 regulates the right to freedom of thought, conscience, and religion; Article 10 regulates freedom of expression; and Article 11 regulates freedom of assembly and association. Title II regulates the European Court of Human Rights, and Title III corresponds to various provisions.

The European Court of Human Rights functions on a permanent basis in accordance with Article 19 of the aforementioned Convention, which states: "In order to ensure the respect of the commitments resulting for the High Contracting Parties from this Convention and its protocols, a European Court of Human Rights is hereby established..."

In Article 53 of the Charter of Fundamental Rights of the Human Being issued by the European Union in 2016, proclaimed to achieve the protection of fundamental rights, it states:

> Nothing in this Charter shall be interpreted as restricting or adversely affecting human rights and fundamental freedoms as recognized, in their respective fields of application, by Union and international law and by international agreements to which the Union or all the Member States are party, including the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Member States' constitutions.

The European Commission is part of the European Union and applies the law to members, including the Charter of Fundamental Rights of the European Union and related directives to safeguard human rights.

The Organization for Security and Cooperation in Europe (OSCE) (sf) states that it "promotes human rights and fundamental freedoms," and its sphere of action includes the European continent, North America except Mexico, and the countries of Central Asia.

Also, the Organization for Security and Cooperation in Europe (OSCE) (n.d.) indicates that the Office for Democratic Institutions and Human Rights (ODIHR) "monitors the human rights situation in the 57 participating States," which includes the rights to freedom of assembly and association.

Oceania

The Australian Human Rights Commission promotes respect for and protection of human rights. Established in 1986 as an independent body, its functions include enforcing human rights, receiving complaints about discrimination, and administering federal human rights laws.

The Australian Human Rights Commission (AHRC) (Sf) states that it "is an independent third party that investigates complaints of discrimination and human rights violations" (Australian Human Rights Commission, n.d.).

The New Zealand Human Rights Commission is established in accordance with the United Nations Convention on Human Rights, in force since February 1, 1994, which outlines the provisions of the 1977 Human Rights Commission, promotes respect for human rights, harmonious relations between individuals, and racial equality and equal employment opportunities, and protects the human rights of persons with special needs.

According to the United Nations (UN) Human Rights Council (2010, p. 5), in 2009 the Head of State repealed the Human Rights Act 1999 by the "Human Rights Commission Decree 2009." Its main functions are to promote public awareness of the content of human rights, advise the government on human rights, and defend human rights in Fiji.

Human Rights

The universality of human rights is a characteristic of human rights; in this regard, Article 1 of the Universal Declaration of Human Rights establishes: "All human beings are born free and equal in dignity and rights and, endowed as they are with reason and conscience, should behave fraternally towards one another." Article 2 of the same body of law regulates respect for human rights without any distinction or restriction.

The characteristic of universality is inferred from the fact that the provisions on the protection of human rights are part of international law, as can be seen in the Universal Declaration of Human Rights and in the international treaties on the subject signed by the member countries.

Human rights are interrelated, from the right to life, the right to freedom of thought, protest, or demonstration; association; the right to health; to work; to the protection of genetic data; digital rights; and social rights, including the right to elect, to be elected to public office, and to live in an adequate and healthy environment for human life.

The Juan Vives Suriá Foundation (2010, p. 36) mentions that the "Constitutions of the rule of law establish formal counterweights between the different powers as a means to prevent the concentration and authoritarian exercise of power." In that sense, the protection of the independence of the powers of the republic is considered: the executive, legislative, and judicial powers, whose interaction must avoid legal insecurity and uncertainty due to the exercise of power in a dictatorial manner that controls the powers and justifies their actions with national precepts. The form, organization,

and structure of the powers of the State are established in the organic part of the national constitution.

In this regard, Peñaloza and Garza Salinas (2002, p. 20) explain that the rule of law in a State is a human right that must be protected in order to maintain legal certainty and security.

Del Picó Rubio (2024, p. 162) mentions that "Legal certainty is one of the purposes that the doctrine has established as proper of the Law." The author concludes that legal certainty, respect, and protection of the rights of the individual are achieved through the power of the state. (Del Picó Rubio, 2024, p. 173)

The researcher Carrasco García (2019, pp.139-140) quotes Castillo Córdoba, who states that human rights are moral norms, which are incorporated into the national legal system; thus the State is obliged to respect them. Among these rights are included civil and political rights.

Consequently, the human rights regulated in positive law, generally in the dogmatic part of the national constitution, are transformed into fundamental rights.

National Law and Human Rights

In a democratic state, the political constitution guarantees and protects human rights. The author Carrasco García (2018, p. 144) explains that fundamental rights are called constitutional rights when they are regulated by the national constitution. In consideration of the principle of constitutional legal primacy, it is null and void any rules, regulations, judgments, or contracts that contradict constitutional provisions.

Through constitutional control, procedures are established to guarantee and protect the fundamental rights of citizens, who may resort to the competent jurisdictional bodies to request that their rights be respected.

Carrasco García (2018, p. 145) relates human rights to personal dignity "and to the values of freedom, equality, and solidarity; they are recognized and protected without any discrimination by the legal-constitutional order of democratic states and by the collective conscience, which is manifested in the international law of the United Nations."

Characteristics of Human Rights

The characteristics of fundamental rights according to Carrasco García (2018, p. 154) are universality, absolute, inalienability, imprescriptible, interdependence and immutability, universality is characteristic related to the human being without any distinction, because of its characteristic of being absolute, without any exception they must be respected, human rights do not prescribe in any term, they are inalienable, they cannot be alienated because of their characteristic of being inalienable, the interdependence of human rights refers to the fact that they are concatenated in defense of the human being, in addition, they are immutable because they are derived from the permanence of the inherent nature of the human being.

According to the aforementioned characteristics, the rights in the civil and political categories of freedom of expression, association and demonstration are integrated with the other rights, without any impairment, thus preventing states from disrespecting human rights and backsliding in their protection.

Method

Dialectical Method

The authors Rodríguez Jiménez and Pérez Jacinto (2017) clarify that in general, the dialectical method starts from "the concrete sensible to the abstract and from this to the concrete thought and from this to practice."

Continuing with the authors Rodríguez Jiménez and Pérez Jacinto (2017, p. 178) regarding the dialectical method, they elucidate that the relationship of abstract thinking with generalization reaches the concrete that is thought and reasoned from the interdependence between the action, the phases of the process, and the events under study, from whose arguments the contrastation or comparison is made, which allows observing, analyzing, and inferring the situation under study and its evolution.

Céspedes (2017, p. 290) says that "dialectics is given in and by human praxis, and it is in this where it is found as the logic that is grasped from the reflexive act of concrete existence." He quotes Sartre when he states that dialectics "is the logic of the constant change present in the relations of the process of objectification characterized by its negativity."

Ibarra Serna (2019, p.34) quotes Popper, who describes the dialectical method, estimates that it is integrated in three parts which he calls: "the thesis, antithesis, and synthesis." He further explains that dialectics "gathers the merits of thesis and synthesis." The thesis and antithesis are contradictions, and by contrasting or comparing them, the result is deduced by means of synthesis.

The author Vilchis Esquivel (2008) states that the dialectical method leads to the "triadic model thesis-antithesis-synthesis, whose process involves an initial affirmation, its negation, and the negation of this, which in turn is an affirmation that gives rise to a new cycle." She explains that, according to Hegel's idea, the procedure depends on the synthesis.

From what has been expressed, it is clear that the dialectical method focuses on the interaction of opposites to reach a synthesis; it is used to contrast contrary arguments from which the synthesis is obtained.

The dialectical method identifies the thesis according to the situation under study, according to the problem, the questions, objectives, and hypotheses that are posed to find the synthesis that allows relating the thesis with the antithesis used.

According to Vilchis Esquivel (2008), the antithesis is an expression opposed to the thesis, which is analyzed with respect to the situation in contrast to the thesis, so that in the synthesis the thesis and the antithesis are compared to distinguish the situations under study, according to what is described in the previous paragraph by the author Ibarra Serna Itzel Cristina.

The study investigates the protection of the right to protest or peaceful demonstration as a sample defined by the author as one of the human rights protected by the international system and regional subsystems for the protection of human rights.

The information was obtained from documentary sources available on the Internet: electronic books, scientific journal articles, and statutes of the international entities under study. The pertinent information was compiled by means of a template designed in office automation for the annotation of the different organizations or entities, according to the region in which they operate and the resolution in which the statute of incorporation is found.

Results

The results for the thesis, antithesis, and synthesis according to the dialectical method are presented below.

Thesis

The member states of the regional subsystem or of the universal system for the protection of human rights respect human rights, including the right to peaceful protest or demonstration, and freedom of association, freedom of expression of thought.

The right to peaceful demonstration is protected for the defense of democracy in accordance with the Charter of Human Rights and in the international treaties of the regional systems that make up the human rights system. The protection of human rights includes the right to protest or peaceful demonstration, which implies respect for the right to free association and the right to freedom of thought.

There are international institutions that protect human rights by region, integrate regional systems, and generally integrate the universal system for the protection of human rights, which includes the right to protest or peacefully demonstrate.

In states where the constitution is applied to reality, human rights, including the right to protest or demonstrate peacefully, are protected.

The national law protects human rights in a democratic state and regulates them by establishing them in the fundamental law that is in the normative category, whose norms are applied to reality and include the protection of the right to peaceful protest or demonstration, freedom of association, and freedom of expression of thought.

Antithesis

None of the member states of the regional subsystem or of the universal system for the protection of human rights respect human rights, including the right to peaceful protest or demonstration, freedom of association, and freedom of expression of thought.

The right to protest or peacefully demonstrate is not protected for the defense of democracy; in some states, respect for human rights is carried out at the convenience of those who hold power and use the law to justify their actions.

There are international institutions for the protection of human rights, which do not protect human rights by region and are not integrated into the universal system, excluding the right to protest or peaceful demonstration.

In states where the constitution is used to justify the actions of the ruler, human rights, including the right to protest or demonstrate peacefully, are unprotected.

The national law does not protect human rights in a democratic state and adopts protection by establishing them in the fundamental law that is in the normative category, whose norms do not apply to reality, and excludes from protection the right to peaceful protest or demonstration, freedom of association, and freedom of expression of thought.

Synthesis

There are member states of the regional subsystem or of the universal system for the protection of human rights that respect the right to peaceful demonstration and the human rights of the human beings who live there, in democratic states with

the right to peaceful protest or demonstration that is protected, along with freedom of association and freedom of expression of thought, in accordance with the Universal Declaration of Human Rights, while there are states that disrespect human rights through internal provisions, in general they are authoritarian, without division of powers; the right to protest or peaceful demonstration is unprotected at the convenience of those who govern; the laws are interpreted to justify the authoritarian actions of their rulers; legal certainty and the defense of democracy are affected.

The international institutions included in the regional and universal subsystems for the protection of human rights protect human rights and the right to peaceful demonstration in countries that are members of international treaties, while in countries that disrespect human rights, international sanctions are imposed on actors that affect human rights and on the state whose leadership avoids respecting them, including the right to peaceful protest or demonstration.

In states whose constitution is interpreted and applied to reality according to the rules, recommendations are adopted to achieve the protection of human rights, including the right to protest or peaceful demonstration.

Generally speaking, the national law of each state, a member of the international society, protects human rights. When they are positivized, they are called fundamental rights. They are established in the dogmatic part of the political constitution of republican states, while in totalitarian states, or in which, according to their fundamental law, the division of powers is non-existent, they are generally unprotected, in particular the right to protest or peaceful demonstration; freedom of association and expression of thought are unprotected, justifiably at the convenience of the leadership in power.

Discussion and Conclusions

The authors Palacios Peñafiel and Villacrés López (2024, p. 1287) explain with attention to the right to peaceful protest or demonstration:

> protest has been used as a means of resistance to oppression, injustice, and violation of rights. It has been a key tool in the struggle for racial equality, labor rights, women's rights, LGBT+ rights, human rights, and environmental protection, so the right to protest is supported by international instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the American Convention on Human Rights, to which Ecuador is a party.

This is in accordance with the fact that human rights and the human right to protest are protected by the international human rights system, which includes the Universal Declaration of Human Rights, as well as instruments of the regional human rights subsystem.

Calvache Navarrete (2024, p. 59) describes that “Ecuador is a plurinational and intercultural state recognized in the 2008 Constitution; the collective rights of indigenous peoples are recognized (1998), and the Right to Resistance is guaranteed (...).”

The previous paragraph coincides with the result of the present research in the sense that the constitutions recognize human rights, in particular the right to resistance, the right to protest.

Llano Franco (2024, p. 115) alludes to the fact that "social protests continue to be an essential collective action in contemporary democratic states, which is why their protection, not only constitutional but also international, constantly strengthens it."

This is in accordance with the fact that human rights and the right to peaceful protest or demonstration are protected by the national constitution, as well as by international treaties.

The United Nations Organization (UN), an international actor within the system for the universal protection of human rights, acts according to its statutes in coordination with regional systems that protect human rights, mostly public entities.

Human rights are protected by the universal system and regional systems for the protection of human rights, which interact and sanction states that disrespect human rights, particularly the right to protest or peaceful demonstration, also protected by fundamental law, together with the right to freedom of thought and the right of association in a republic, as opposed to the authoritarianism of those who, in the exercise of power, violate the human rights of the population.

The national constitution establishes the fundamental rights for the protection of the human being, derived from those established in international treaties; on the other hand, the international conventions on the matter under study become part of the national legal framework according to the regulated procedure, at the top of the national legal framework, except in states that define domestic law with a higher legal hierarchy than international law.

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ANALYSIS OF LAWS AND DECREES AS LEGAL PATHWAYS TO GUARANTEE THE RIGHTS OF INDIGENOUS AND AFRO-DESCENDANT COMMUNITIES IN HONDURAS: CURRENT PROBLEMS AND CHALLENGES

ANÁLISIS DE LAS LEYES Y DECRETOS COMO VÍAS JURÍDICAS PARA GARANTIZAR LOS DERECHOS DE LAS COMUNIDADES INDÍGENAS Y AFRODESCENDIENTES EN HONDURAS: PROBLEMAS Y RETOS ACTUALES

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Manuscript information:

Received/Recibido: 19/08/2024
Reviewed/Revisado: 14/11/2024
Accepted/Aceptado: 17/11/2024

Keywords:
indigenous population, Afro-descendants, legislation, Honduras, human rights.

ABSTRACT

This article analyzes and compares Honduran laws and decrees that protect the rights of Indigenous and Afro-descendant communities. The aim of the research is to assess the strengths and weaknesses of the current legal framework and the obstacles to its effective implementation. A qualitative approach was used, and a comprehensive analysis of the relevant laws and decrees was conducted. Additionally, semi-structured interviews and questionnaires were administered to representatives of the affected communities and human rights experts. The sample consisted of thirty participants for the questionnaires and fifteen for the interviews. Thematic coding and comparative analysis were used to analyze the data. The results reveal a significant disparity between policy formulation and effective execution. Despite the substantial progress made by new laws, significant issues remain, such as the lack of institutional coordination and the inadequate allocation of resources, which limit the effectiveness of the policies. The research concludes that, despite advances in the legal framework, the effectiveness of the laws depends on more rigorous enforcement and greater inclusion of the affected communities in the implementation process. To improve the protection of these communities' rights, the study highlights the need for institutional reforms, active community participation, and sustained international commitment.

Palabras clave:
población indígena, afrodescendientes, legislación, Honduras, derechos humanos.

RESUMEN

Este artículo analiza y compara las leyes y decretos hondureños que protegen los derechos de las comunidades indígenas y afrodescendientes. El objetivo de la investigación es evaluar las fortalezas y debilidades del marco legal actual y los obstáculos para su implementación efectiva. Se utilizó un enfoque cualitativo y se llevó a cabo un análisis completo de las leyes y decretos

	pertinentes. Además, se realizaron entrevistas semiestructuradas y cuestionarios a representantes de las comunidades afectadas y expertos en derechos humanos. La muestra consistió en treinta participantes para cuestionarios y quince para entrevistas. La codificación temática y el análisis comparativo se utilizaron para analizar los datos. Los resultados muestran una notable disparidad entre la formulación de políticas y su ejecución efectiva. A pesar de que las nuevas leyes han logrado avances significativos, todavía existen problemas importantes, como la falta de coordinación institucional y asignación de recursos adecuados, que limitan la eficacia de las políticas. La investigación concluye que, a pesar de los avances en el marco legal, la eficacia de las leyes depende de una aplicación más rigurosa y de una mayor inclusión de las comunidades afectadas en el proceso de implementación. Para mejorar la protección de los derechos de estas comunidades, se destaca la necesidad de reformas institucionales, una participación comunitaria activa y un compromiso sostenido a nivel internacional.

Introduction

Honduras has undergone important legal and political changes in recent decades with the aim of protecting the rights of indigenous and Afro-descendant communities. Historically marginalized, these populations have faced a variety of problems, including loss of ancestral lands, violence and systematic discrimination.

In response, the government has issued a series of laws and decrees to protect their rights, demonstrating a renewed dedication to social justice and human rights. However, effective enforcement of these regulations remains a major challenge, especially in rural areas and in situations of high vulnerability.

This article analyzes and compares the most important laws and decrees in Honduras, evaluating their impact and the current challenges to protect the rights of these communities.

Theoretical Basis

In modern societies, equality is a fundamental principle that is necessary to guarantee human dignity and the full exercise of the rights and freedoms granted to them. "All are equal before the law and are entitled without distinction to equal protection of the law," according to the Universal Declaration of Human Rights (United Nations, 2015). This principle is particularly important for indigenous and Afro-descendant peoples, who have been systematically discriminated against and marginalized throughout history. Therefore, equality must serve as the basis for all other rights, avoiding any social, economic or cultural discrimination.

One of the greatest challenges facing modern democratic societies is persistent discrimination, which manifests itself in unequal rights and opportunities for certain social groups. As López (2016) points out, this situation leads to an unjust society in which formal equality, which is often expressed in normative texts, does not translate into material or factual equality. "A merely formal interpretation of equality has the effect of hiding a series of inequalities of a material and symbolic order that do not correspond to the demanding normative assumptions of democracy," warn Clerico and Aldao (2011).

Many governments have begun by eliminating these inequalities through the elimination of discriminatory laws. This is a great advance, but it is not enough to completely eradicate discrimination (López, 2016). It is recognized that the implementation of laws and decrees, although important, does not in itself guarantee material equity. Anderson (2005) proposes the implementation of different policies that allow the effective inclusion of historically marginalized groups, opening spaces in important areas such as education, work, political participation and the economy.

In Honduras, the Constitution and several international instruments, including Convention 169 of the International Labor Organization (ILO, 1989) protect the rights of indigenous and Afro-descendant communities. These documents highlight the importance of protecting fundamental rights such as cultural identity, access to land and territory, prior consultation and participation in decisions that affect them, as well as equality and non-discrimination in all spheres of life.

However, the effective implementation of these rights in practice remains a challenge. Legal frameworks in Honduras have advanced considerably in terms of formal recognition of the rights of these communities, but significant problems persist in their implementation, reflecting a gap between formal equality and material equality (IACHR, 2020). To close this gap, it is essential not only to strengthen implementation mechanisms, but also to promote the participation of affected communities in the

decision-making process and in monitoring compliance with their rights (Human Rights Watch, 2022).

Method

Research design

This study uses a qualitative research design to understand the regulations and public policies that affect indigenous and Afro-descendant communities, as well as their implementation. The method included documentary analysis, semi-structured interviews and questionnaires. The documentary analysis identified the relevant laws, decrees and public policies. Human rights experts, officials and community representatives were interviewed and completed questionnaires to examine obstacles in the implementation of these regulations and assess their impact on reducing inequalities and discrimination. This method combined institutional perspectives and community experiences, providing a comprehensive view of how regulations work.

Sample

To ensure adequate representation of the various actors involved in the protection of human rights and indigenous and Afro-descendant communities in Honduras, the sample was selected in a stratified manner. 15 participants with expertise in human rights, public policy and direct connections to these communities participated in semi-structured interviews as part of a purposive sample.

Government officials, community leaders and human rights experts were part of this group. In addition, an additional group of thirty people was selected to complete the questionnaire, representing a variety of views and experiences of the affected communities. The combination of these techniques provided a complete and well-founded understanding of the implementation of the standards analyzed.

Inclusion Criteria:

- Relevant experience in human rights or in the implementation of policies related to indigenous and Afro-descendant communities.
- Direct representation of the affected communities or participation in organizations that work with these communities.

Exclusion criteria:

- Participants who do not have direct experience or relevant knowledge in the field of human rights or in the implementation of policies related to indigenous and Afro-descendant communities.
- Individuals who are not directly involved or do not have a significant relationship with the communities in question.

Participant Characteristics: Study participants were carefully selected to provide a comprehensive and varied view of the implementation of the regulations. Include government officials with responsibilities in the formulation and execution of public policies related to the rights of indigenous and Afro-descendant communities. In addition, community leaders and representatives of non-governmental organizations that are directly involved in the promotion and defense of these rights in local communities were included. Human rights experts with vast experience in the region also participated, providing in-depth knowledge of the challenges and opportunities in policy

implementation. This diversity in the profile of the participants ensures a comprehensive perspective on the impact and effectiveness of the regulations evaluated.

Data collection process

a. Semi-structured interviews: interviews were scheduled and carried out in person or through virtual platforms. The interviews were recorded with the consent of the participants, transcribed and organized for analysis.

b. Questionnaires: questionnaires were distributed through digital platforms and in physical format, according to the preference of the participants. The questionnaires were designed to elicit both quantitative and qualitative responses.

Data Analysis

a. Qualitative analysis: interview data were analyzed by thematic coding to identify patterns, emerging themes and discrepancies between policy and practice.

b. Quantitative analysis: the results of the questionnaires were statistically analyzed to identify trends and correlations, and integrated with the findings of the interviews for a complete picture.

Ethical Considerations: Before participating in the interviews and completing the questionnaires, all participants gave informed consent. He ensured that the data were stored securely and only used for the study, protecting the confidentiality of the data. Participation in the study was completely voluntary, and participants were free to leave the study at any time without having to worry about any negative results. An accurate and fair representation of participants' perspectives was made possible by an unbiased approach to data collection and analysis.

Recent Regulatory Framework

In recent years, Honduras has made progress in creating a regulatory framework to respond to the demands of indigenous and Afro-descendant communities, who have historically faced discrimination and marginalization. The most recent and relevant regulations are listed below in Table 1:

Table 1

Summary of Relevant Regulations for the Protection of the Rights of Indigenous and Afro-descendant Communities in Honduras

Regulations	Institution	Date of Enactment	Gazette publication	Provision
Law for the Prevention, Attention and Protection of Internally Displaced Persons (Legislative Decree 154-2022)	National Congress	march 20, 2023	Gazette No. 36,184	Establishes a framework for the protection of internally displaced persons, with a focus on gender-based violence.
Law for the Protection of Women in Contexts of Humanitarian Crises, Natural Disasters and Emergencies (Legislative Decree 9-2023)	National Congress	may 02, 2023	Gazette No. 36,217	Guarantees specific protection for women in crisis and emergency situations.
Law of the National DNA Database System (Legislative Decree 57-2023)	National Congress	august 31, 2023	Gazette No. 36,322	Facilitates identification of missing persons and clarification of crimes
Repeal of the Organic Law of the Employment and Economic Development Zones (ZEDE) (Legislative Decree 32-2022)	National Congress	april 21, 2022	Gazette No. 35,902	Protects territorial sovereignty and prevents usurpation of land by ZEDEs
Repeal of the Organic Law of the Employment and Economic Development Zones (ZEDE) (Legislative Decree 33-2022)	National Congress	april 26, 2022	Gazette No. 35,907	Repeal in its entirety the decree containing ZEDE,
Creation of the Solidarity Network Program and other social programs (PCM-08-2022)	Executive Power	may 02, 2022	Gazette No. 35,912	Establishes programs to reduce extreme poverty and enhance social inclusion
Garifuna Route Law (Legislative Decree 50-2023)	National Congress	november 20, 2023	Gazette No. 36,388	Declares the Garífuna Route as a permanent program to preserve and promote the Garífuna culture.
Recognition of Juan Bulnes as an Emblematic Personage (Legislative Decree 42-2024)	National Congress	may 18, 2024	Gazette No. 36,537	Recognizes Juan Bulnes as an outstanding historical figure of the Garífuna people.
Recognition of Lauro Agapito Álvarez Dolmo (Legislative Decree 51-2022)	National Congress	june 16, 2022	Gazette No. 35,951	Awarded recognition to Lauro Agapito Álvarez Dolmo for his trajectory in favor of the Garifuna communities.
Creation of the High-Level Intersectoral Commission for Compliance with International Judgments (PCM 03-2024)	Executive Power	march 26, 2024	Gazette No. 36,495	Implements international judgments related to Garifuna communities.
Day of the English-speaking Black Afrodescendant Population in Honduras	National Congress	july 19, 2024	Gazette No. 36,590	Declares August 1 as the Day of the Black Afrodescendant Population and

(Legislative Decree 130-2022)				promotes cultural activities.
Recognition of Afro-descendant Men and Women (Legislative Decree 41-2024)	National Congress	may 18, 2024	Gazette No. 36,537	Recognizes outstanding Afro-descendants in various areas with plaques and scrolls.
Declaration of the International Decade for People of African Descent in Honduras (Legislative Decree 33-2019)	National Congress	august 22, 2019	Gazette No. 35,029	Establishes an action plan to promote the rights of people of African descent aligned with the SDGs.
Mayan Route Law (Legislative Decree 77-2022)	National Congress	22.November.2022	Gazette No. 36,083	Declares the "Mayan Route" as a Permanent Program of National Interest to promote cultural exchanges based on common ancestral values in the American Region.

These regulations reflect the growing commitment of the Honduran State to address the needs and protect the rights of indigenous and Afro-descendant communities. However, significant challenges remain when comparing retrospectively what was envisaged during its formulation with the reality of its actual implementation (Holz et al., 2023).

Law for the Prevention, Attention and Protection of Internally Displaced Persons (Legislative Decree 154-2022). This law marks an important advance in Honduran legislation by recognizing violence, including gender-based violence, as a cause of forced displacement. Establishes a comprehensive framework for the protection of displaced persons, highlighting a differential and gender approach (National Congress, 2022).

Law for the Protection of Women in Contexts of Humanitarian Crises, Natural Disasters and Emergencies (Legislative Decree 9-2023). This law focuses on the protection of women in crisis situations, addressing their vulnerability to violence and exploitation in emergency contexts. It represents a milestone in gender legislation in Honduras (National Congress, 2023a).

Law of the National DNA Database System (Legislative Decree 57-2023). This legislation is crucial for the resolution of crimes and the identification of missing persons, being especially relevant for communities that have suffered human rights violations (National Congress, 2023b).

Repeal of the Organic Law of Employment and Economic Development Zones (ZEDE) (Legislative Decree 33-2022). The repeal of this law was a significant victory for indigenous and Afro-descendant communities, as ZEDEs represented a threat to their territorial sovereignty and land rights (National Congress, 2022).

Creation of the Solidarity Network Program and other social programs. Established through executive decrees, these programs seek to reduce extreme poverty and improve social inclusion, with a particular focus on the most vulnerable populations, including indigenous and Afro-descendant communities (Presidency, 2024a).

Garifuna Route Law (Legislative Decree 50-2023). This law, declared as a Permanent Program of National Interest, aims to preserve and promote the language, dance, handicrafts and other cultural aspects of the Garifuna population. An Interinstitutional Committee for Permanent Support was created for the conservation and promotion of the cultural expressions of the Garífuna Route in Honduras (National Congress, 2023c).

Recognition of Juan Bulnes as an Emblematic Personage (Legislative Decree 42-2024). This decree recognizes Juan Bulnes as an emblematic figure of the history and culture of the Garífuna people, highlighting his courage and commitment to freedom and Central American unity (National Congress, 2024a).

Recognition of Lauro Agapito Álvarez Dolmo (Legislative Decree 51-2022). Through this decree, the "Gold Medal with Special Scroll" is awarded to Álvarez Dolmo for his outstanding career in favor of the Garifuna communities of Honduras (National Congress, 2022b).

Creation of the High Level Intersectoral Commission for Compliance with International Judgments (PCM 03-2024). This commission was created to ensure compliance with the judgments of the Inter-American Court of Human Rights in the cases of the Garifuna communities of Triunfo de la Cruz and Punta Piedra, guaranteeing the protection of their rights (Presidency, 2024b).

Day of the Black Afrodescendant English-speaking Population in Honduras (Legislative Decree 130-2022). This decree establishes August 1 as the Day to celebrate and promote the traditions and culture of the Afro-descendant English-speaking black population in Honduras, with cultural activities throughout the month of August (National Congress, 2022c).

Recognition of Afro-descendant Men and Women (Legislative Decree 41-2024). This decree grants recognition with a Gold Plaque and Scroll to outstanding Afro-descendant men and women who have made significant contributions to the enhancement of Honduras (National Congress, 2024b).

Declaration of the International Decade for People of African Descent in Honduras (Legislative Decree 33-2019). This decree instructs central institutions to align their activities with the Sustainable Development Goals (SDGs) and the 2030 Agenda, implementing an action plan during the International Decade for People of African Descent (National Congress, 2019).

Mayan Route Law (Legislative Decree 77-2022): This law declares the Maya Route as a Permanent Program of National Interest with the objective of promoting cultural exchanges based on ancestral values common to the American Region (National Congress, 2022d).

Understanding the Scope of the Regulation: Legislative Decree vs. PCM

A Legislative Decree is a law that is enacted by the National Congress in Honduras and has legal force. The aforementioned decrees are essential to establish comprehensive public policies and their compliance is mandatory for all inhabitants and institutions of the country. The "Mayan Route Law" (Legislative Decree 77-2022), for example, is an example of how a Legislative Decree can approve programs of national interest that have a lasting impact. A PCM (Presidency of the Council of Ministers), on the other hand, is a provision issued by the Executive Branch that has legal force but in a more administrative and specialized area. (Superior Court of Accounts of Honduras, 2023),

The internal organization of the government, specific regulations and the implementation of policies already established by law are the main topics of the PCMs. Although they can also have a great impact, their scope is generally more limited than that of Legislative Decrees. This distinction is essential to understand the importance and impact of the laws in Honduras, especially when talking about fundamental rights or the creation of special economic zones such as ZEDE.

Discussion

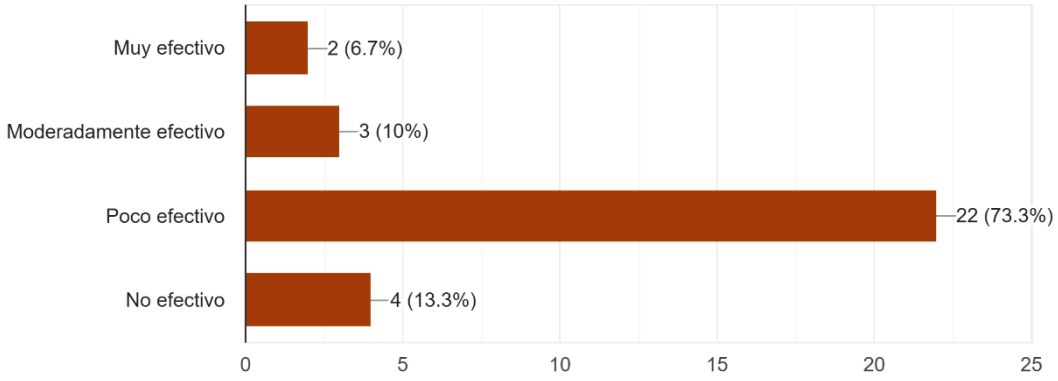
The questions of the questionnaire are presented below, together with the corresponding graphs, as well as a detailed analysis and discussion of the results. As part of this study, 30 questionnaires were used and semi-structured interviews were conducted with 15 key participants, including human rights experts, government officials, indigenous and Afro-descendant community leaders. The main findings are presented below, followed by an analysis and discussion.

Perception of the Legal Framework

Question: How would you rate the effectiveness of the current legal framework to protect the rights of indigenous and Afro-descendant communities?

Figure 1

Evaluation of the Effectiveness of the Legal Framework in the Protection of the Rights of Indigenous and Afro-descendant Communities



The participants' assessment of the effectiveness of the legal framework in protecting the rights of indigenous and Afro-descendant communities is shown in Figure 1. The results indicate that the majority of respondents believe that the framework in question is insufficient.

Most of the interviewees recognized the significant advances in the creation of a legal framework that seeks to protect the rights of indigenous and Afro-descendant communities in Honduras. However, they also expressed concern about the gap between the enactment of these laws and their effective implementation. Several participants pointed out that, although the laws exist on paper, their application in reality is limited, especially in rural areas.

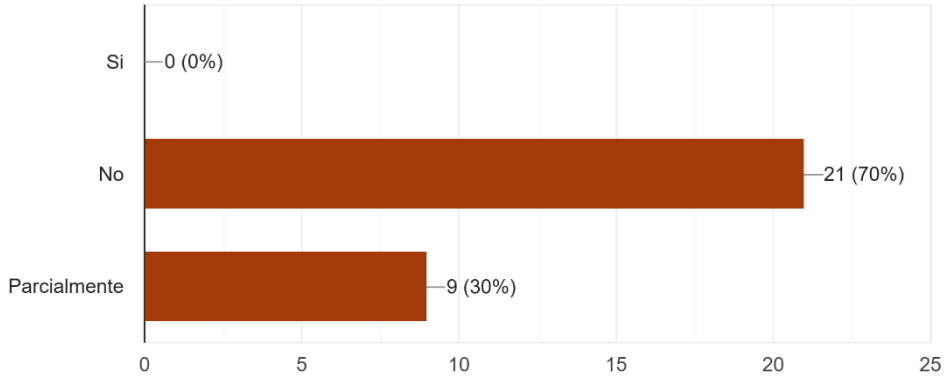
This result highlights a troubling disconnect between policy formulation and implementation. Lack of resources, both financial and human, was identified as a key barrier. This is consistent with previous research suggesting that the existence of a robust legal framework does not guarantee its effectiveness if it is not accompanied by a real commitment to its enforcement (Smith, 2020). The perception of the affected communities also indicates a lack of trust in government institutions, which could hinder the cooperation necessary for the implementation of these laws.

Community Participation in the Legislative Process

Question: do you consider that indigenous and Afro-descendant communities have been adequately consulted in the legislative process?

Figure 2

Perception of the Adequacy of Consultation with Indigenous and Afro-descendant Communities in the Legislative Process



Respondents' opinions on whether indigenous and Afro-descendant communities have been adequately consulted during the legislative process are shown in Figure 2. The results are evident and show a generalized perception of exclusion in these processes.

Community leaders who were interviewed said that laws and decrees were often created without adequate consultation with indigenous and Afro-descendant communities. This has resulted in the creation of policies that, although well-intentioned, do not always meet the particular needs and realities of these communities. According to some participants, the lack of inclusive participation has led to policies that are not culturally sensitive or appropriate.

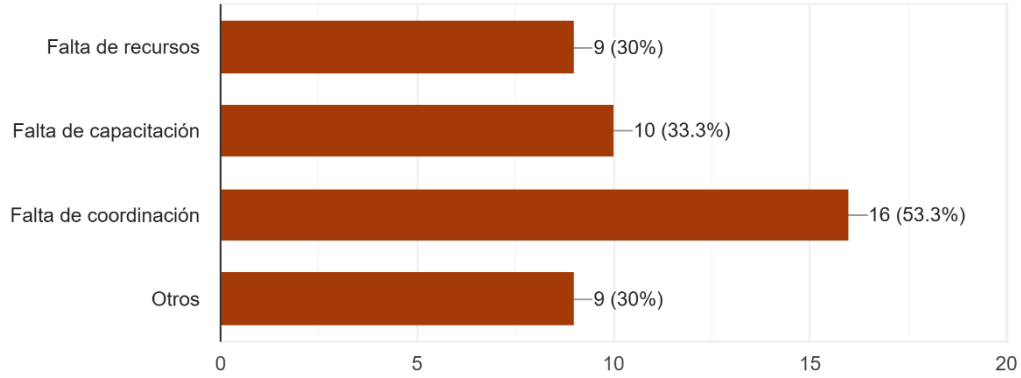
The lack of inclusion of communities in the legislative process in Honduras highlights a structural problem in policy formulation. Lack of consultation and participation weakens laws and erodes communities' trust in government and legal institutions. This result is in line with studies that argue that people should participate and collaborate in policy-making processes that affect vulnerable communities (Garcia et al., 2018). The active inclusion of communities in the design phase of laws could increase their relevance and applicability, thus increasing their positive impact.

Implementation and Institutional Training Barriers

Question: what is the main barrier to effective implementation of laws in your opinion?

Figure 3

Main Barriers to Effective Implementation of Laws as Seen by Participants



Respondents' perceptions of the main barriers to the effective implementation of laws protecting the rights of indigenous and Afro-descendant communities are shown in Figure 3. Lack of coordination" was the obstacle most frequently mentioned by 53.6% of the participants. This indicates that, despite the existence of laws, the lack of effective communication between the different institutions and actors involved hinders their application.

The lack of training and resources in the institutions in charge of implementing the laws was a recurring theme in the interviews. Government officials acknowledged that responsible agencies often lack the qualified personnel and resources needed to carry out their functions effectively. In addition, government agencies were found not to work well together, resulting in inconsistent enforcement of laws.

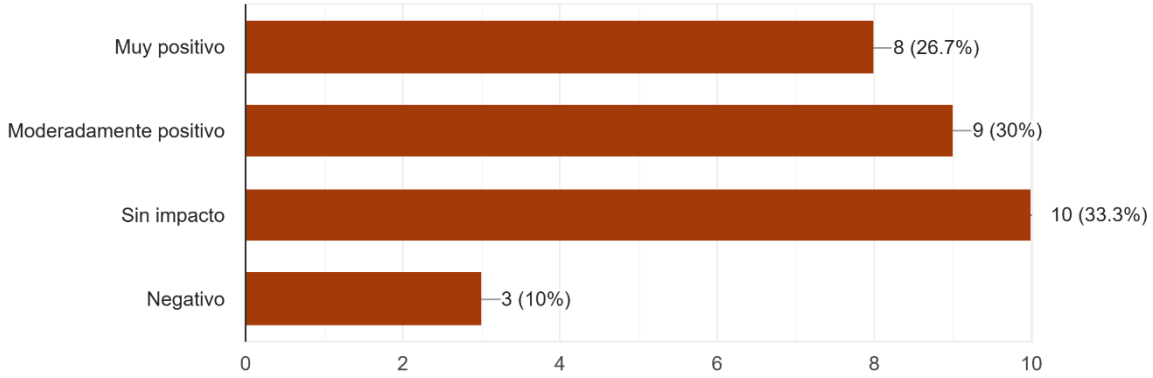
A crucial barrier to the effective implementation of policies aimed at protecting the rights of indigenous and Afro-descendant communities is the lack of institutional capacity. This confirms the importance of strengthening organizations through proper training of personnel and allocation of adequate resources. The lack of cooperation between institutions also shows the importance of a more collaborative and integrated approach to policy implementation. According to this result, institutional reforms should go beyond passing laws and focus on increasing the operational capacity of the responsible agencies (López & Martínez, 2019).

Impact on Communities and Perceptions of Sovereignty

Question: how has the repeal of the ZEDE Law impacted your community?

Figure 4

Impact of the Repeal of the ZEDE Law on the Community according to the Participants



The impact of the repeal of the ZEDE Law on the communities can be seen in Figure 4. Possibly because the law represented a threat to territorial sovereignty and ancestral land rights, 26.7% of respondents consider that the elimination of the law has had a "very positive" impact. The additional 30% evaluate it as "moderately positive", indicating that, although the elimination is viewed positively, the expected changes have not been as significant or immediate.

However, 33.3% say the repeal has had no impact on their communities, which could indicate a disconnect between the legislation and local circumstances. In addition, ten percent perceive a "negative" effect, indicating that for some, the elimination of the law has generated additional uncertainties or problems, such as the loss of investments or economic projects related to ZEDEs. These findings highlight the complexity of the effects of legislation on communities and the diversity of experiences that exist among them.

Interviewees from indigenous and Afro-descendant communities stressed that the elimination of the Organic Law of Employment and Economic Development Zones (ZEDE) was an important step to protect their territories and strengthen national sovereignty. However, they also said they still have significant problems with access to land, protection of natural resources and physical security.

The repeal of the ZEDE Law is seen as a significant victory for the affected communities because it demonstrates that the government has recognized the demands of these communities. However, the persistence of land and natural resource problems indicates that continued efforts are required to ensure that these communities can fully exercise their rights. This result indicates that not only are legislative changes needed to protect national sovereignty and the territorial rights of communities, but measures must also be taken to ensure security and access to resources essential for the survival of communities (Verhelst and Contreras Urbano, 2024)

Comparative Analysis and Effectiveness of Implementation

A comparison of these laws and decrees shows a regulatory framework that, although ambitious, presents significant obstacles in its implementation. The strengths and weaknesses found in the study are listed below:

Strengths

Legal and Political Commitment: The State is committed to protecting the rights of indigenous and Afro-descendant communities through the creation of new laws and the

elimination of harmful laws such as ZEDE. These legislative measures are crucial to restore confidence in the legal system and in the government.

Focus on Human Rights and Gender: The incorporation of gender and human rights approaches in new laws is a significant advance, especially in a context where racial discrimination and gender-based violence have long been ignored.

Weaknesses

Lack of effective implementation: despite a solid regulatory framework, the implementation of these laws remains a challenge. The effectiveness of these policies has been limited by the lack of financial resources, trained personnel and political will at certain levels of government, particularly in remote regions.

Disconnection with Community Needs: In many cases, laws and programs are created without adequate consultation with affected communities, resulting in solutions that do not always address the specific needs or cultural contexts of indigenous and Afro-descendant communities.

Current challenges and future prospects

In terms of protecting the rights of its indigenous and Afro-descendant communities, the greatest challenge facing Honduras is to close the gap between legislation and practical implementation. Several reforms and additional actions are required to achieve this objective:

1. Institutional strengthening: Providing adequate resources and continuous training to personnel is essential to improve the capacity of the institutions in charge of implementing these laws. To ensure that policies are implemented equitably and effectively, monitoring and accountability mechanisms should also be strengthened.
2. Community Involvement: It is crucial that communities participate more actively in the legislative process and policy implementation. Creating spaces for discussion and consultation can ensure that laws and programs reflect the real needs and aspirations of communities.
3. Continuous Monitoring and Evaluation: The implementation of monitoring and evaluation systems is crucial to assess the impact of laws and programs. To ensure that policies are implemented and produce the expected results, these mechanisms must be transparent and allow for community participation.
4. International Commitment: To overcome internal challenges, strengthening relationships with international organizations and leveraging cooperation and technical assistance can be essential. Participating in global forums such as UNESCO's Global Forum against Racism and Discrimination is a step in the right direction to align national policies with international human rights standards.

Conclusions

The research highlights the notable disparity between the creation and enforcement of laws in Honduras that seek to protect the rights of indigenous and Afro-descendant communities. Despite notable progress in creating a legal framework that recognizes and promotes the rights of these communities, the effectiveness of these laws remains limited by a number of structural challenges. Insufficient resources, lack of

coordination between institutions and lack of training of law enforcement personnel are major obstacles to effective law enforcement.

In recent years, Honduras has created a legal framework that protects the rights of indigenous and Afro-descendant communities. However, the main challenge remains effective implementation, and achieving this will require collaborative work that includes institutional reforms, greater community participation and continued commitment at both the national and international levels. Only a comprehensive strategy can ensure that these communities fully enjoy their rights and live in conditions of respect and dignity.

It is also highlighted that existing ZEDEs continue to operate in a legal vacuum, invoking legal guarantees from international treaties, despite the fact that the ZEDE Law was eliminated (Contracorriente, 2023). Although the elimination of the law has been considered a victory for national sovereignty and the protection of land rights, there are still significant problems with access to land and the protection of natural resources. The current situation highlights the importance of implementing additional reforms and concrete actions to address these persistent obstacles.

It is important to note that although Legislative Decrees such as the "Ley de la Ruta Maya" aim to establish long-term policies and are crucial to protect community rights, PCMs have a more limited and functional role in the governmental system. This disparity in the application of the law emphasizes the importance of a solid legal system backed by formal laws to guarantee the effective protection of the rights of indigenous and Afro-descendant communities in Honduras.

In addition, exclusion is a recurrent problem that prevents indigenous and Afro-descendant communities from participating in legislative processes, which negatively affects the relevance and impact of policies. These communities should actively participate in the creation and implementation of laws to ensure that policies are tailored to their particular needs and contexts. Institutional reforms are needed to increase operational capacity, encourage community participation and foster sustained international commitment to improve the situation. Only through a comprehensive approach that combines appropriate resources, political will and the inclusion of affected communities will it be possible to close the gap between legislation and its effective implementation in Honduras.

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MLS – LAW AND INTERNATIONAL POLITICS (MLSLIP)
https://www.mlsjournals.com/MLS-Law-International-Politics
ISSN: 2952-248X

(2024) MLS-Law and International Politics, 3(2), 69-85. doi.org/10.58747/mlslip.v3i2.2995.

UNVEILING DEPENDENCY: A CRITICAL LOOK AT ANGOLA'S CENTRAL BANK AUTONOMY

REVELANDO LA DEPENDENCIA: UNA MIRADA CRÍTICA A LA AUTONOMÍA DEL BANCO CENTRAL DE ANGOLA

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Información del manuscrito:

Recibido/Received: 23/07/2024
Revisado/Reviewed: 25/09/2024
Aceptado/Accepted: 05/10/2024

Keywords: central bank international reserves (CBIR), gross domestic product ration (GDPR), economic growth rate (EGR).

ABSTRACT

The aforementioned study takes an approach linked to the National Bank of Angola, on the topic of autonomy and dependence of the Central Bank of Angola, highlighting its objective of examining the relationship between the international reserves of the Central Bank of Angola (CBIR) and the ratio of GDP and the economic growth rate, by carrying out an extensive time series analysis from 1990 to 2023. The study aims to identify the short-term linkages and long-term equilibrium dynamics in Angola's economic landscape, focusing on understanding of the complex dynamics of these variables. The results show strong short-term correlations between the CBIR, the GDP ratio and the economic growth rate, suggesting possible adjustment processes and interactions between these variables. Furthermore, analysis of long-run equilibrium relationships reveals strong correlations between the GDP and CBIR relationship, indicating a noteworthy and affirmative relationship and its relationship with macroeconomic performance has been concentrated in the emerging markets of Asia and Latin America, as well as in the main industrialized nations. The correlation study highlights the complexity of Angola's economic dynamics, revealing only small connections between variables. These revelations have important ramifications for academics and politicians who want to support Angola's sustainable economic development.

Palabras clave:
reservas internacionales del banco central (CBIR), razón del producto interno bruto (GDPR), tasa de crecimiento económico (EGR).

RESUMEN

El estudio adopta un enfoque vinculado al Banco Nacional de Angola, sobre la autonomía y dependencia del Banco Central de Angola, destacando su objetivo de examinar la relación entre las reservas internacionales del Banco Central de Angola (CBIR) y el relación entre el PIB y la tasa de crecimiento económico, mediante la realización de un extenso análisis de series temporales de 1990 a 2023. El estudio tiene como objetivo identificar los vínculos a corto plazo y la dinámica de equilibrio a largo plazo en el panorama económico de Angola, centrándose en la comprensión de la dinámica compleja de estas variables. Los resultados muestran fuertes correlaciones de corto plazo entre el CBIR, el ratio del PIB y la tasa de crecimiento económico, lo que sugiere posibles procesos de ajuste e interacciones entre estas variables. Además, el análisis de las relaciones de equilibrio de largo plazo revela fuertes correlaciones entre el PIB y la relación CBIR, lo que indica una relación notable y afirmativa y su relación con el desempeño macroeconómico se ha concentrado en los mercados emergentes de Asia y América Latina, así como en los principales países. Naciones industrializadas. El estudio de correlación destaca la complejidad de la dinámica económica de Angola y revela sólo pequeñas conexiones entre las variables. Estas revelaciones tienen importantes ramificaciones para los académicos y políticos que quieren apoyar el desarrollo económico sostenible de Angola.

Introduction

Study background

In recent decades, Angola's economy has suffered from instability and crises. It has been susceptible to shocks to commodity prices, excessive inflation, and currency devaluation as a growing market dependent on oil (Hammond, 2011). To stabilize economies such as Angola's, academics and international organizations have advocated for the establishment of central bank independence and a transparent, rules-based framework for monetary policy (Acemoglu et al., 2008). But in many developing nations, central bank autonomy has proven difficult to establish and uphold in practice (Bodea & Hicks, 2014). The National Bank of Angola, also known as Banco Nacional de Angola, or BNA, is the central bank of Angola. Although it has adopted an inflation targeting regime among other measures, it still lacks significant operational and goal independence from political interference The BNA is nevertheless susceptible to pressure to support directed lending, finance fiscal deficits, and keep the currency rate steady in order to prevent inflation possibly at the price of other policy objectives like production stability. Aiming to improve institutions and openness, Angola has pushed economic reforms under the leadership of President João Lourenço, who was elected in 2017. Nonetheless, there has been unequal progress, and it is unclear why reform is being done. In practice, de facto central bank independence does not necessarily correspond with de jure independence. Like in Angola, personalized authoritarian regimes bolster their legitimacy by posing as autonomous institutions, but they are subtly undermined by political networks (François et al., 2015). Thus, it is essential to comprehend the political economy that surrounds central banks (Conti-Brown & Lastra, 2018). For what reasons, and who is in favor of or against autonomous reforms? What long-term effects do political and economic shocks have on central bank independence? The responses shed light on how governments, whether authoritarian or democratic, strike a balance between flexibility and trustworthiness when it comes to financial. The goal of this planned mixed-methods study is to clarify the intricate, unofficial ties that underpin Angola's central bank authority. The project will chart the evolution of BNA independence from the end of the nation's civil war in 2002, both in theory and in reality. It will map out the formal and informal interests and power dynamics limiting BNA policies following times of crisis and transformation using historical records, media reports, and expert interviews. The paper tries to examine the reasons and effects of insufficient fiscal and monetary cooperation for macroeconomic stability in Angola through a critical political economy lens.

Central bank independence

One of the main policy recommendations made by economists and organizations such as the IMF to improve macroeconomic results, particularly containing excessive inflation in developing nations, is central bank independence (CBI) (Mpofu, 2012). Nevertheless, there has been conflicting empirical data regarding the efficacy of law reforms for the CBI. Certain research indicates that when comparing underdeveloped countries to advanced economies, there is either no association or minimal impact. Determining the causal relationship between enhanced monetary and inflation control and CBI are two more topics of open discussion. De facto autonomy versus de jure autonomy is another. In order to add to this empirical discussion, Mpofu (2012) evaluated CBI reforms in three African nations: South Africa, Zambia, and Zimbabwe, from 1980 to 2005. It focuses particularly on how the CBI affects headline macro goals like inflation

rates and intermediate targets like the increase of the money supply. The primary independent variable in the analysis is the Cukierman, Webb, and Neyapti (1992) index of legal central bank independence. Indexes of democracy, economic freedom, and governance offer more institutional background. The study intends to ascertain the degree and statistical significance of link between growing legal CBI and macro factors such as inflation in these nations over a period of more than two decades by utilizing multivariate time series models. The comparisons also show why different national contexts may see different impacts provides data at the macro and micro levels, adding a noteworthy African viewpoint to the empirical debate on the standards and realities surrounding central bank policy autonomy in developing countries.

Central banks and monetary policy

A summary of central banking models and monetary policy frameworks used in sub-Saharan Africa may be found in the chapter of Adam et al. (2018). It mentions that a lot of African nations had government-run credit allocation schemes and exchange rate targeting until the 1990s, without having their own central banks. Since then, a number of nations have moved towards market-based policy instruments, embraced inflation targeting, given central banks legal authority, and made an effort to enhance coordination with fiscal authorities. However, because of the undeveloped financial markets, financial strains, unstable economy, and vulnerability to political meddling, problems with performance and credibility still exist. The chapter highlights how difficult it is still for many sub-Saharan central banks to develop and carry out depoliticized, coherent monetary policies in the face of economic instability.

Central banks' independence in commodity economies

In economies that rely heavily on commodities, Koziuk (2016) investigates the factors that influence central bank independence (CBI) and its efficacy. It contends that because of changes in commodity prices, these nations are more vulnerable to macroeconomic volatility and the possibility of hyperinflation. But because monetary policy responds to the political business cycle and fiscal priorities, they also typically have weaker CBI (Koziuk, 2016). The analysis reveals that economic structure has a major impact; compared to non-commodity nations, commodity exporters exhibit lower levels of independence, inflation tolerance, and currency rate flexibility. But even in times of crisis, keeping CBI can help achieve better policy results. The study comes to the conclusion that, although political incentives provide challenges to autonomy, even resource-rich developing governments might benefit from isolating monetary institutions as a commitment mechanism. All things considered, it advances studies on the applicability of global CBI standards in unstable, internationally susceptible national environments.

Objectives

The study objectives are;

1. To investigate the impact of GDP ratio on central bank international reserves.
2. To determine the impact of economic growth rate on central bank international reserves.

Problem Statement

An extensive analysis is necessary due to the intricate interaction of factors that characterise Angola's economic landscape. The nation's central bank's international

reserves have become a crucial gauge of economic stability in the face of volatility in GDP ratios and rates of economic growth. Even Nevertheless, there is still a lack of knowledge regarding how these factors relate to one another and how they affect Angola's overall economic trajectory. By examining the relationships between Angola's GDP ratios, economic growth rates, and central bank international reserves, this study seeks to close this disparity. The research looks for patterns, correlations, and causal linkages by evaluating historical data and using econometric tools. This helps to provide light on how various variables interact and affect the nation's economic performance. By examining these factors, this research aims to provide stakeholders, economists, and policymakers with a better knowledge of Angola's economic dynamics and to help them make strategic decisions for sustainable growth.

Significance of the study

The resource-rich nation of Angola in Southern Africa has seen notable economic volatility recently. Policymakers, investors, and economists must all comprehend the dynamics of the country's GDP ratio, economic growth rate, and central bank international reserves. The purpose of this study is to examine the relevance of these indicators in the particular context of Angola, elucidating their consequences for the economic stability, future development, and policy interventions of the nation. An analysis of the GDP ratio the gross domestic product divided by the population offers important information about the living standards and economic output of Angolan inhabitants. A higher GDP ratio denotes a higher level of economic output per person, implying higher living standards and more room for infrastructure and social programmed investment. On the other hand, a low GDP ratio could be an indication of inefficient use of resources, unequal income distribution, or structural impediments to economic growth. Policymakers can pinpoint areas for focused intervention to support inclusive growth and initiatives to reduce poverty by examining variations in the GDP ratio over time. An important measure of Angola's overall economic performance and trajectory is its rate of economic growth. An economy that is thriving due to external reasons like favorable conditions, productivity improvements, and investment is indicated by a robust and sustained growth rate. On the other hand, low or stagnant growth rates could indicate deeper problems including unpredictability in policy, budgetary imbalances, or external shocks. Comprehending the factors propelling Angola's economic expansion is crucial, especially considering its substantial dependence on oil earnings, in order to devise efficacious diversification tactics and mitigate susceptibility to swings in commodity prices. Furthermore, specific policies to support equitable and sustainable development can be informed by analyzing differences in growth rates between industries and geographical areas. Central banking institution Angola's macroeconomic stability and shock resistance are largely dependent on its international reserves. Angola's economy, which exports mostly oil, exposes it to volatility in the world's commodities markets, which increases its vulnerability to unexpected capital outflows, currency devaluation, and balance of payments crises. Sufficient reserves act as a safeguard against these hazards, enabling the central bank to step in and stabilise the currency while fulfilling its external commitments. Reserves can also help long-term investment and economic growth by lowering borrowing costs, facilitating access to international funding, and boosting investor confidence. It is possible for policymakers to evaluate the nation's external liquidity position and take proactive steps to alleviate potential vulnerabilities by keeping an eye on movements in central bank reserves in relation to important economic indicators. An analysis of the GDP ratio, economic growth

rate, and international reserves held by the central bank provides important information about the state of the Angolan economy, its problems, and its top policy priorities. Through a knowledge of these variables' dynamics in the unique Angolan context, policymakers can devise focused interventions aimed at advancing inclusive growth, diversifying the economy, and bolstering resilience against external shocks. Additionally, this study adds to the body of knowledge on macroeconomic management and economic development in resource-dependent economies, providing policymakers worldwide with insightful guidance and best practices.

Literature review

The complexities of governance inside shadow systems are examined by Roque, P.C. (2022) in "Governing in the Shadows." The goal of the research is to provide light on the frequently disregarded players and processes that function outside of established political systems. Identifying the power and influence dynamics in these shadow systems, analyzing how they affect established governance frameworks, and evaluating the effects on democracy and accountability are some of its goals. The scope of shadow governance, how it interacts with official institutions, and how it affects public trust and policy outcomes are all factors that are measured. In order to give readers a thorough grasp of the phenomena of shadow governance, the author's methodology combines qualitative and quantitative techniques with case studies, empirical research, and theoretical frameworks. The study's final conclusion is that shadow systems are crucial to reshaping political environments, questioning accepted ideas of governance, and emphasizing the necessity of frameworks for adaptive governance to handle the growing complexity of modern society.

By Schubert, J. (2022) examines the issue of derailed development hopes and the effect of neoliberal efficiency on Angola's predicament. The goal of the study is to find out how Angola's current crises and development trajectory have been impacted by neoliberal policies. Analyzing the neoliberal reforms' implementation, assessing how they affect important development metrics, and investigating the crises' root causes are some of the goals. Evaluating economic growth rates, GDP ratios, income inequality, poverty levels, and social welfare indicators are examples of variable measurement. The study's methodology combines qualitative analysis, case studies, and statistical modeling to explore the intricate connection between Angola's development results and neoliberal policies. While neoliberal efficiency methods initially promised economic development, the study shows that they have also increased poverty and social inequality, which in turn fueled the Angolan crisis and made alternative development plans that put social welfare and inclusivity first necessary.

Using a recently created dataset, Romelli, D. (2022) investigates the political economy of changes in central bank architecture. The goal of the study is to look into the variables that affect how central bank designs vary among nations and areas. Identifying the institutional, political, and economic forces influencing central bank reforms as well as evaluating their effects on macroeconomic stability and the efficacy of monetary policy are among the goals. The research utilizes an extensive dataset to assess factors like macroeconomic results, accountability systems, transparency, and central bank independence. From a methodological standpoint, it looks at the links between these variables using econometric tools and statistical analyses. The study comes to the conclusion that political considerations, such the kind of government and its ideology, have a big impact on how central banks design changes. It also concludes that measures

meant to strengthen Central Bank independence and openness often enhance macroeconomic stability and the efficacy of monetary policy.

Using cross-national data, Makrychoriti and Pasiouras (2021) investigate the connection between national culture and central bank transparency. Their research attempts to explore the ways in which cultural factors impact central banks' degree of transparency in various nations. The authors measure national culture using Hofstede's framework of cultural dimensions, and then evaluate central bank transparency using an index created by Eijffinger and Geraats (2006). They look at a lot of different countries over a period of time and use panel data analysis to find trends and correlations. The results imply that cultural aspects, including individualism and the desire to avoid ambiguity, have a major impact on the degree of transparency in central banks. This emphasizes how crucial it is to take cultural aspects into account when developing transparency rules inside central banks, offering insightful information to both academics and policymakers.

In his investigation of the factors influencing green innovation, Spyromitros, E. (2023) focuses on the role played by monetary policy and central bank traits. The purpose of the study is to find out how these variables affect the uptake and promotion of technologies that are environmentally friendly. The study aims to evaluate the correlation between monetary policy stance and green innovation, investigate the significance of central bank attributes like transparency and independence, and pinpoint plausible pathways by which these elements influence green innovation. While central bank characteristics are assessed using indices assessing transparency and independence, the study uses interest rates or other pertinent indicators to measure monetary policy stance. From a methodological standpoint, data from a sample of countries over a specific period of time are analyzed using econometric techniques like regression analysis. The results indicate that the degree of green innovation is highly influenced by both monetary policy and central bank attributes, with transparent and independent central banks frequently being linked to higher levels of environmentally friendly innovation.

The complex relationship between China and Africa's economic development is examined by (Carmody, P. et al, 2020) in their paper "Africa's Shadow Rise: China and the Mirage of African Economic Development." The study aims to critically evaluate China's contribution to African economic growth and investigate if the ostensible advantages of Chinese involvement materialize into concrete development results for African nations. In order to assess the effect of Chinese involvement on African economies, the authors take into account a number of variables, including trade volumes, infrastructure investments, FDI, and economic growth rates. The study assesses the quantitative and qualitative aspects of economic interactions between China and Africa by using a mixed-methods approach that combines econometric modeling and qualitative analysis. The writers come to the conclusion that whereas Chinese investment has definitely despite having helped Africa's economy grow, it has also raised questions about resource exploitation, debt sustainability, and the maintenance of the uneven power relations between China and African countries, raising doubts about the existence of a real African economic development illusion.

By (Mutarindwa, S, et al, 2020) investigated the connection between bank stability in African nations and supervisory guidelines on corporate governance issued by central banks. The purpose of the study was to look into how such guidance affected bank stability throughout Africa. While measures including capital adequacy ratios, asset quality, management quality, earnings, and liquidity (CAMEL) were used to quantify bank stability, the authors used qualitative analysis of regulatory texts to estimate the

supervisory guidance on corporate governance provided by central banks. Using panel data analysis and fixed effects and random effects models, the methodology analyzed data from 43 African nations between 2007 and 2016. According to the study, corporate governance supervisory guidelines issued by central banks have a major positive impact on bank stability in African nations. Emphasizing how crucial strong regulatory frameworks are to improving financial stability.

In the context of political economy study, the author, Sylla, N. S. (2023), examines the complex relationship between imperialism, debt in the Global South, and theoretical frameworks such modern monetary theory, ecological economics, and dependency theory. The goal of the research is to clarify the ways that imperialism sustains debt in developing nations, emphasizing the ecological and economic ramifications. The author examines variables like debt levels, ecological degradation, economic reliance, and financial policies through a multi-dimensional study. In terms of methodology, the study makes use of a theoretical synthesis, empirical data, and critical analysis to disentangle the intricate relationships between imperialism and the debt load of the Global South. The conclusion emphasizes the necessity of global cooperation, debt restructuring procedures, and revolutionary economic strategies to solve the structural inequities brought on by imperialist actions and support the Global South's sustainable development.

De Oliveira, R. S. (2022) explores the topic of "Researching Africa and the offshore world" with the objective of investigating the relationship between Africa and offshore financial centers. The study aims to understand the extent to which African countries engage with offshore financial activities and the implications thereof. The variables measured include the volume of financial transactions, capital flows, and regulatory frameworks related to offshore activities in African nations. Methodologically, the research employs a combination of qualitative analysis and empirical data examination, drawing on case studies and statistical analysis to provide a comprehensive understanding of the phenomenon. The conclusion highlights the significant presence and impact of offshore financial activities in Africa, emphasizing the need for improved regulation and transparency to mitigate potential risks and maximize the advantages of these interactions for the economy of Africa.

Method and results

The study uses time series data from 1990 to 2023 to examine the complex relationships between Angola's GDP ratio, international reserves held by central banks, and pace of economic growth. By employing a bivariate regression Autoregressive Distributed Lag (ARDL) model, the study seeks to reveal the causal linkages and interdependencies between these important economic factors. Correlation tests are the first step in the analysis since they identify preliminary relationships between the variables and highlight possible connections that need more research. The relationship between the international reserves held by central banks and the GDP ratio and economic growth rate is then tested in both the long and short terms to uncover the relationship's complex temporal dynamics. Additionally, the research does diagnostic procedures to guarantee the stability and dependability of the study employs a rigorous methodology to investigate the underlying mechanisms behind fluctuations in Angola's GDP ratio, economic growth rate, and central bank international reserves over the last three decades. Regression modeling is used to mitigate concerns regarding potential biases or

misspecifications. Over an extended period, the impact of the GDP ratio and economic growth rate on the international reserves of the central bank is observed to be significant, highlighting the critical role that reserve management plays in determining the macroeconomic conditions of Angola. Furthermore, the short-run effects shed light on the momentary nature of these interactions by highlighting the direct consequences of changes in central bank international reserves on the GDP ratio and economic growth rate. The directional relationships between the variables are further clarified by causality tests, which further illuminate the processes by which fluctuations in central bank international reserves spread throughout the economy and affect GDP growth and general economic stability. Diagnostic tests identify possible problems like heteroscedasticity or autocorrelation, which calls for model modifications and robustness checks to guarantee the accuracy of the findings. Furthermore, even though the bivariate regression ARDL model provides insightful information about the connection between GDP ratio, economic growth rate, and central bank international reserves, its applicability may be restricted in terms of fully encapsulating the intricacy of Angola's economic dynamics. Therefore, to provide a more nuanced view of the mechanisms driving economic performance in Angola.

Model specification

The following is the study model.
Y= (X)
Y= (GDPR, EGR)
Y= Central bank international reserves
GDPR= Gross domestic product ratio
EGR= Economic growth ratio.

$$\mathbf{CBIR = \beta_0 + \beta_1 GDPR + \beta_2 CBIR + ut}$$

Where the error term is ut, β0 is the slope, and coefficient estimate of independent variables is β_1, β_2.

Table 1
Descriptive statistics

	CBIR	EGR	GDPR
Mean	22.89068	3.955882	0.258824
Median	14.23500	4.050000	0.310000
Maximum	95.20000	26.60000	1.120000
Minimum	0.210000	-41.20000	-0.800000
Std. Dev.	28.04025	11.61442	0.522127
Skewness	1.393552	-1.570362	-0.315765
Kurtosis	3.667414	8.154319	2.282116
Jarque-Bera	11.63564	51.61080	1.295100
Probability	0.002974	0.000000	0.523326
Sum	778.2830	134.5000	8.800000
Sum Sq. Dev.	25946.44	4451.524	8.996353
Observations	34	34	34

In the context of the dataset containing 34 observations, the descriptive statistics shown in Table 1 provide insightful information on the distribution and features of the GDP ratio (GDPR), economic growth rate (EGR), and central bank international reserves (CBIR). The average data show that the GDPR is 0.26, the EGR is 3.96%, and the CBIR is 22.89, indicating modest levels of economic growth and central bank reserves combined with a low GDP ratio. With maximum values of 26.60 for EGR and 95.20 for CBIR, the observed large ranges nevertheless demonstrate significant variability within the dataset. The existence of negative minimum values for EGR (-41.20) indicates periods of economic recession, while the skewness values show the distributions' asymmetry, which is especially noticeable in the negative skewness values. EGR (-1.57), which suggests a propensity for slower growth rates. Furthermore, heavy-tailed distributions are indicated by high kurtosis values for GDPR and EGR, which may indicate the presence of extreme data or outliers. The CBIR and EGR Jarque-Bera tests show deviations from normalcy, so care should be taken when interpreting the data. In the context of Angola's economic environment, these descriptive statistics offer a thorough overview of the dataset and provide insightful information about the distributional features and possible subtleties in the relationships between CBIR, EGR, and GDPR.

Unit root Augmented Dicky Fuller (ADF) test

Table 2

At level, At 1st difference and Lag length criteria

With constant and no trend			
	CBIR	EGR	GDPR
t- statistics	2.531	-5.365871	-5.365871
Prob	0.9999	0.0001***	0.0001***
With constant and trend			
t-statist*cs*	-1.325391	-4.912723	-1.153982
Prob	0.8575	0.0020	0.9036
Without constant and trend			
t-statistics	4.002922	-4.046848	-1.020158
Prob	0.9999	0.0002**	0.2704
With constant and no trend			
	CBIR	EGR	GDPR
t- statistics	-1.882388	-4.624521	-4.282552
Prob	0.3344	0.0008	0.0020
With constant and trend			
t-statist*cs*	-7.355803	-4.971614	-4.259928
Prob	0.0000***	0.0019	0.0103
Without constant and trend			
t-statistics	-3.141825	-4.626260	-4.338985
Prob	0.0027	0.0000***	0.0001***

Lag	**LogL**	**LR**	**FPE**	**AIC**	**SC**	**HQ**
0	-279.3025	NA	9231.128	17.64391	17.78132	17.68946
1	-202.2854	134.7800*	132.0457*	13.39284*	13.94249*	13.57503*
2	-194.2877	12.49642	143.0802	13.45548	14.41737	13.77432

The outcomes of the level-specific Augmented Dickey-Fuller (ADF) unit root tests with various constant and trend specifications provide important information about the stationary characteristics of the GDP ratio (GDPR), economic growth rate (EGR), and central bank international reserves (CBIR) variables. The t-statistics for CBIR show insignificance (2.531) with a high probability value (0.9999) when taking into account the tests with a constant and no trend. This suggests that CBIR may have a unit root and is therefore non-stationary. In contrast, the t-statistics for GDPR and EGR are both significant (-5.365871) and have probability values of 0.0001, which suggests that these variables are stationary and provide strong evidence against the presence of a unit root. The results are slightly different when the model includes a constant and trend regarding CBIR. The t-statistics show that non-stationary persists since they are consistently negligible (-1.325391) across all tests. EGR supports stationary by maintaining significance (-4.912723) with a probability value of 0.0020. GDPR, on the other hand, yields inconsistent results. Specifically, a test without a constant and trend shows insignificance, implying non-stationary, whilst a test with a constant and trend shows significance, suggesting probable stationary. Overall, these results highlight the significance of taking various specifications into account when doing unit root tests and offer information about the stationary characteristics of the variables being studied.

The findings of the first difference level Augmented Dickey-Fuller (ADF) unit root tests, with different constant and trend specifications provide more information about the stationary characteristics of the GDP ratio (GDPR), economic growth rate (EGR), and central bank international reserves (CBIR) variables. The t-statistics for CBIR show insignificance (-1.882388) with a probability value of 0.3344 when taking into account the tests with a constant and no trend, indicating that CBIR might not become stable even after differencing. In contrast, the t-statistics for GDPR and EGR are both significant (-4.624521 and -4.282552, respectively), and their low probability values (0.0008 and 0.0020) support the stationary of both variables after differencing and provide strong evidence against the presence of a unit root introducing a trend and a constant in the model considerably modifies the outcomes. After differencing, the t-statistics for CBIR show strong evidence of stationary and become extremely significant (-7.355803) with a probability value of 0.0000. EGR's stationary is supported by its significance (-4.971614) and probability value of 0.0019. With a probability value of 0.0103, GDPR likewise yields noteworthy results that imply stationary upon differencing. These results demonstrate how first differencing works well to achieve stationary, especially when paired with a constant and trend.

A lag of 1 is most appropriate for the model, according to the lag length criteria, which have been assessed using a variety of information criteria, including the Akaike Information Criterion (AIC), Schwarz Information Criterion (SC), and Hannan-Quinn Criterion (HQ). The highest log-likelihood (LogL) value and the lowest values for AIC, SC, and HQ among the lag choices examined support this result. The choice of a lag of 1 is further supported by the likelihood ratio (LR) test, which shows a notable improvement in model fit when going from 0 to 1 lag. As a result, according to these standards, a lag of one is thought to be ideal for analyzing the relationship between the variables in question.

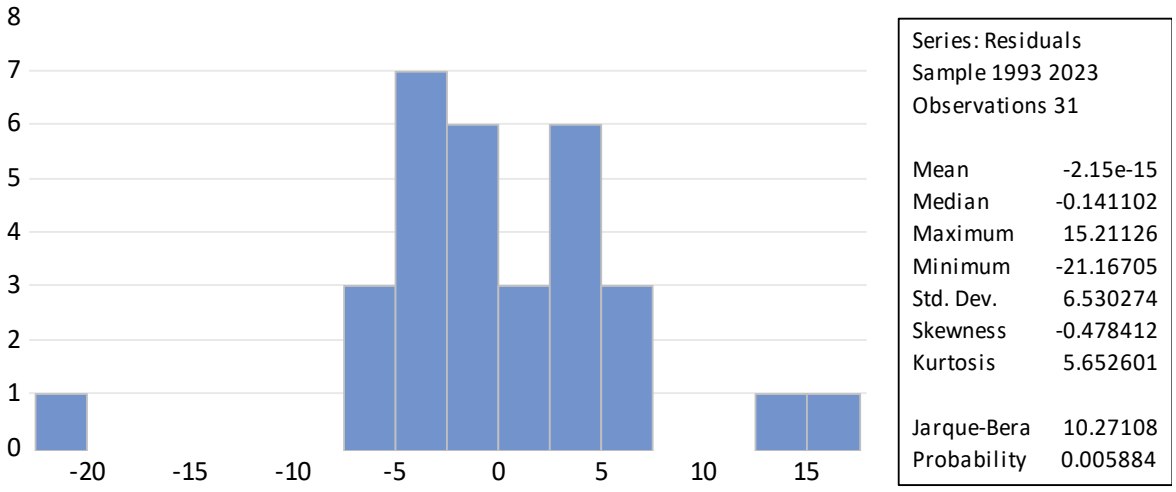
Table 3
Short run relationship

Variables	Coefficient	Std. Error	t-statistics	Prob.
C	6.255515	3.357355	1.863228	0.0780
CBIR(-1)*	-0.267997	0.079954	-3.351890	0.0033
EGR(-1)	-0.225898	0.347647	-0.649793	0.5236
GDPR(-1)	9.073196	4.601943	1.971601	0.0634
D(CBIR(-1))	0.464430	0.180092	2.533572	0.0203
D(CBIR(-2))	0.310634	0.413989	1.724859	0.1008
D(EGR)	-0.485628	0.339623	-1.173044	0.2553
D(EGR-1))	0.641299	0.259872	1.8888266	0.0744
D(EGR-2))	-0.405973	7.815057	-1.562201	0.1347
D(GDPR)	-2.183198	7.864387	-0.279358	0.7830
D(GDPR(-1))	-5.448322	7.828408	-0.692784	0.4968
D(GDPR(-2))	-12.14964	7808305	-1.551994	0.1372

The coefficients derived from the regression model are used to analyze the short-term association between the variables. With all other variables held constant, the constant term (C) shows that the model has an intercept of 6.255515, albeit it is only slightly statistically insignificant (p-value = 0.0780). With a coefficient of -0.267997 and a p-value of 0.0033, the lagged values of central bank international reserves (CBIR) show a significant negative connection, indicating that a decline in CBIR in the prior period causes a decline in the current period. A slightly significant positive association is also seen in the lagged values of the GDP ratio (GDPR) (coefficient = 9.073196, p-value = 0.0634), suggesting that an increase in the GDP ratio in the prior period typically causes a rise in the present period. Still, The first differences of the CBIR and EGR variables are represented by the coefficients D(CBIR) and D(EGR), respectively. These coefficients show inconsistent results, with some (like D (CBIR (-1) being statistically significant and others not, suggesting possible short-run dynamics and adjustment mechanisms between the variables. In general, these coefficients offer valuable information on the short-term associations among the variables.

This implies that there may be a statistically significant intercept in the long run, which would indicate the initial level of the variables while all other variables are held constant. All things considered, these coefficients shed light on the long-term equilibrium linkages between the variables, helping academics and policymakers comprehend the underlying dynamics and create effective plans for sustained economic growth.

Figure 1
Histogram normality



Note: Own elaboration, (2024)

Discussion

Nuanced insights into the data dynamics between important macroeconomic variables, such as the GDP ratio, growth rates, and central bank reserves in Angola, are offered by the comprehensive unit root tests. After first differencing, the GDP ratio and growth primarily exhibit stationary or stability, despite the fact that the precise time series features differ among specifications. Reserves, on the other hand, show resistance to changes in stability, suggesting a high level of persistence and route dependence that may be made worse by volatility in commodity prices. Therefore, intrinsic stochastic trends in buffer stock financing must be taken into consideration when evaluating what propels reserve buildup.

The short-term regression results support theoretical hypotheses on countercyclical policy, namely that additional drawdown's are associated with reserve declines in the past. However, linkages between GDP ratios are positively procyclical, indicating that increasing output scales encourage additional reserve asset purchases to sustain import cover as opposed to windfall savings. The inconsistent differenced term coefficients and insignificant intercept highlight the erratic variations in period-to-period change. This portrays central bank behavior as motivated more by strategic precaution than by a need to be reactive under severe resource constraints.

In contrast to GDP's strong correlation, growth has a negligible correlation with steady state reserves in the long term equilibrium. This is probably a reflection of the fact that Angola has never had the external stability necessary to accumulate buffers during times of fast development. However, the economy's scale puts pressure on reserve requirements even when size remains constant. The preservation of baseline assets is influenced by finance anomalies and major persistent signals.

The uneven GDP-growth reserve connections and weak lead-lag reserve correlations ultimately highlight the intricate institutional obstacles that stabilization efforts in commodity-dependent economies with unstable revenue streams face. Given the significant income uncertainty and short policy horizons, countercyclical intuitions regarding consumption smoothing are not very strong. Without addressing real-world

obstacles, this challenges integrated theoretical viewpoints on optimal savings and insurance.

The Angolan case study calls for reconsidering the political economy limitations guiding central bank asset preferences, even as scholars continue their quest for an elusive rule guiding the targeting of appropriate reserves. It is likely necessary to engage with the ideational frameworks and organizational behaviors that underpin emerging nations that rely heavily on commodities in order to reconcile the differences between academic reserve accumulation models and practical decision-making. Beyond technical changes, analytical reorientations that recognize unique uncertainties and institutional contexts may clarify the observable uncertainty around reserve dependence for economic resilience in the real world.

Conclusion

In conclusion, the comprehensive analysis conducted on Angola's economic indicators, namely the GDP ratio (GDPR), economic growth rate (EGR), and central bank international reserves (CBIR), provides crucial insights into the country's economic dynamics. The unit root tests at both level-specific and first difference levels reveal nuanced stationary characteristics of the variables, highlighting the importance of considering various model specifications. The short-term relationship analysis demonstrates significant associations between CBIR, GDP ratio, and economic growth rate, indicating potential dynamics and adjustment mechanisms between these variables. Moreover, the examination of the long-term equilibrium relationships elucidates substantial links between GDP ratio and the other variables, suggesting a positive and significant relationship. However, the correlation analysis suggests only moderate relationships between the variables, indicating a complex interplay within Angola's economic landscape. Overall, these findings underscore the multifaceted nature of Angola's economy and provide valuable insights for policymakers and researchers aiming to foster sustainable economic growth and development in the country.

Limitations

- Accessing reliable, long-term high-frequency macroeconomic data can be challenging, making it difficult to quantify the robust links between policy autonomy, actions, and results.
- Limitations on central bank transparency and disclosure prevent complete observation of internal decision-making procedures.
- It is difficult to quantify outside pressure and covert political meddling on the central bank over time.
- Archival documents from the legislative and executive branches may provide insufficient information about influence over the central bank. Political economy study may be impacted by the prejudices of the researcher as an outsider to the domestic policy process.
- Political economy study may be impacted by the prejudices of the researcher as an outsider to the domestic policy process.

Future direction

The focus of a large body of scholarship on the factors influencing central bank independence (CBI) and its relationship to macroeconomic performance has been on emerging markets in Asia and Latin America as well as major industrial nations. In African economies, CBI has received less attention despite extensive reforms during the 1990s. Due to capacity constraints, neo-patrimonial political dynamics, and economic structure considerations, the African context presents particular difficulties for policy autonomy. Despite statutory measures made by Angola's central bank to establish instrument independence, not many studies have followed the development of aim and operational autonomy during commodity shocks and political changes. Specifically, from a political economics viewpoint that takes into consideration formal and informal factors, the links between de jure CBI, de facto influence, and macro stability results in Angola are still not well understood dimensions. By applying this critical lens to Angola's central banking institutionalization, gaps in the literature on CBI are filled, as is the work on African state-business governance during times of crisis and attempted reform.

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(2024) MLS-Law and International Politics, 3(2), 86-110. doi.org/10.58747/mlslip.v3i2.2652.

INFLATION AND RECESSION: AN ECONOMIC POLITICAL HISTORY AND THE PERUVIAN GDP 1950-2023

INFLACIÓN Y RECESIÓN: UNA HISTORIA POLÍTICA ECONÓMICA Y EL PBI PERUANO 1950-2023

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Manuscript information:

Received/Recibido: 19/03/2024
Reviewed/Revisado: 12/09/2024
Accepted/Aceptado: 18/09/2024

Keywords:
recession, inflation, gross domestic product, economic policy, history-politics, Perú.

ABSTRACT

This article has an analysis and information on Historical Economic Policy, and its causal relationship with inflation and its effect on the recession of the 80's and 2020, and all this result is reflected in the statistical graphs with data from the INEI, and in the table Comparative, this Explanatory Research of a Non-Experimental Type of Study and under the Historical Logical Method, all this is supported by theory of authors, and statistics provided by the INEI, as well as information from the years 1950-2022, which is seen reflected in the GDP of Perú. All of this allows us to counteract and compare how economic policies became similar and how political culture is still maintained. Inflation and Recession brought with it expenses and debts of the state, and dragging unemployment, lack of investment, inequality, adjustments and even not collecting taxes, this is how through the graphic analysis of the GDP it is observed that it is not the first time that the country goes through inflation and a recession, and likewise the bad political decisions continue to be repeated, the economic political reforms as they were in the 90's and now in 2023; That is why the analysis of the Political Economic History of the country, and the warning that the country is repeating the same bad decisions that were made in those years of crisis.

Palabras clave:
recesión, inflación, producto bruto interno, política económica, historia-política, Perú.

RESUMEN

Este artículo tiene un análisis e información Histórica Política Económica, y su relación causal la inflación y su efecto la recesión de los años 80´ y el 2020, y todo este resultado está pasmado en los gráficos estadísticos con data del INEI, y en el cuadro comparativo, esta Investigación Explicativa de Tipo de Estudio no Experimental y bajo el Método Histórico Lógico, todo esto está sustentado bajo teoría de autores, y estadística que arroja la INEI, así como también de información desde los años 1950-2022, el cual se ve reflejado en el PBI del Perú. Todo ello permite contrarrestar y comparar cómo las políticas económicas se fueron pareciendo y como la cultura política se mantiene aún. La Inflación y La Recesión trajo consigo gastos y deudas del estado, y arrastrando al desempleo, la falta de inversión, la desigualdad, los ajustes y hasta el no cobrar Impuestos, es así como mediante el análisis gráfico del PBI se observa que no es la primera vez que el país pasa por una inflación y una recesión, y así mismo las malas decisiones políticas se siguen repitiendo, las reformas políticas

económicas como fue en el 90´ y ahora en el 2023; es por ello el análisis de la Historia Política Económica del país, y la advertencia de que el país está repitiendo las mismas decisiones que se tomaron en esos años de crisis.

Introduction

The history of the economic policies generated between 1980-1989 and those of the years 2020-2023 in Peru, have a great similarity, specifically on inflation and recession; therefore, it is prudent to ask: how and how long it would take for the country's recovery or stability, so we will talk about the impact, relationship and similarity in terms of policy decisions taken in those years and those taken at present, because in both years inflation has been the cause, and the immediate response or the effect would be the recession. This has led to sudden changes in their economic policies in the current government, as they seem to copy policies of previous governments, which the current government implements.

Now, it is true that since 2020, the year of the beginning of the confinement and with it the pandemic which affected economically worldwide, and brought great changes in Peru and in the whole world, if we focus on the economic and political sector of each country, especially in developing countries such as Peru, this has had a great impact, especially in the GDP (Gross Domestic Product) and as in all countries and Peru is no exception, their governments and the policies that were being implemented were not adequate, it has gone through many changes in government and economic policies, especially with the impact of the pandemic in the year 2020, leading Peru to an accelerated inflation, not only with the rise in prices of products, but also in services and production and manufacturing inputs; it should be noted and mentioned that Peru is an agricultural country, and for that reason its consumption is basically from the countryside to the city, so it can be mentioned as the immediate effect was the shortage and the rise in prices, and this because of the pandemic which began in the Peruvian country in March 2020, and with the immobilization and restrictions to leave home were more than 4 months, all this caused the paralysis of certain services and especially the manufacture and production of basic necessities, the paralysis of the production of agricultural inputs, and livestock. As a consequence of everything mentioned in previous lines, it led to a rise in prices because it generated shortages in: final products, inputs for manufacturing, inputs and fertilizers for cultivation; thus, it became expensive to feed the livestock and maintain them; also arose with it the rise of water, electricity, oil, which the latter is necessary, as it is one of its main resources, most of the means of transport use this input, such as factories, which in those years rose to almost double its pre-pandemic price.

Therefore, it was kept in mind as a main objective:

- To explicitly analyze the policies generated, this by means of a historical and statistical analysis, comparing the Economic Policies generated between the years 1980-1989 and the years 2020-2023; seeing their causal relationship, and the effect between the inflation rate and the recession.

The importance of this research article is to show the results obtained through a deep historical analysis, and to support it with theories and methodologies already used by other researches and experts in the field. Likewise, the hypothesis was evaluated, based on the statistics observed and analyzed; these are shown in Figures 1 and 2:

Hypothesis:

- The historical influence between: the economic policies generated between 1980-1989 in the governments of Belaúnde Terry and Alan García (first government), which influenced the economic policies of the years 2020-2023.
- The causes of inflation and its recessionary effects in Peru were due to erroneous economic policy decisions.

Consequently, the objective of the present work is: to determine which variables influenced the inflationary gap to remain within the range established by the Central

Reserve Bank of Peru with its acronym BCRP; between 1.5% and 3.5% from 2002 to 2006, and between 1% and 3% from 2007 to the present, which shows that the economic policies applied in those years were adequate, it is worth mentioning that in those years 2002 to 2006 the rulers were: Valentín Paniagua, Alejandro Toledo and Alan García (second government).

These variables are:

- Economic policies
- Political Stability
- Implementation of rules in the economic market
- Boosting investment
- Creation of new, more specific markets
- More stable domestic and foreign currencies

Now, on the other hand, by 2020 the country was going through a government crisis, together with the beginning of the pandemic, and in that same year we already had a second president, and up to 2023 we had a fifth president, and we will also mention the ways in which the second president Martin Vizcarra and the sixth president Dina Boluarte carried out their government policies in general terms.

The second president Vizcarra, who took drastic measures to curb the pandemic and reduce the contagion, made several supreme decrees and regulations with the rank of law so that both the Ministry of Health and Transportation could get products and supplies within the country, and could work and take food to the most remote places; he also granted bonds for the most needy and vulnerable population, and thus could subsist in those months of work stoppage, also requested medication and vaccines for the population and vaccinated with the first doses, and starting with the first line; at the time, the measures taken were a success, but as everything is not good, this government had an end, the cause was the decisions made under the table that came to public light and forced the resignation of former President Vizcarra. While it is true that another of Vizcarra's decisions was the right one: the decision to request loans and get into debt to acquire medicines with certain foreign companies, the same was done with the World Bank, and in addition to granting bonds to the low-income population, all this caused the state coffers to be in deficit, the only thing that remained after the economic policy decisions, is to take and reformulate economic policies to collect and the state coffers had money again and pay its debts, and since then, failed economic policies that the state has been carrying out at the present time have been taking place.

The sixth and current president of the Peruvian country, Dina Boluarte, who has so far made strenuous efforts, if not exhaustive changes in the economic law regulations, which have led to wrong decisions, which is corroborated by the dissatisfaction of the population, because although this ruler is responsible for approving such laws, amending regulations, Supreme Decrees, etc., these have not been favorable for the nation, because until the year 2023 the GDP is still registering low numbers. In order not to extend this article so much, just to mention that there has been inequality at the moment of decreeing Modifying Norms with the rank of Law, and Laws that confuse the population or in the worst of the cases do not take them importance; as it is the case of the IGV and ISC Tax; as an example: for example, the category of services that would pay a lower IGV, as well as the elimination of the payment of IGV for certain products such as meat in all its presentations, poultry and eggs, as well as the return of the IGV rate to cargo transporters, the government in office taking this decision believed that it would meet the needs of the population and boost the economy and investment and it was not like that, on the contrary, on the contrary, it generated confusion and fear as a response, since the economic and technological changes were coming together, the way SUNAT collected taxes was more

systematized, and the population did not see it as something that favored economic investment, and so once again the country continued to accumulate its deficit, since there was no way to collect taxes and pay the debts of the state with other countries and the World Bank; all this can be seen reflected in the quarterly and annual publications that the INEI publishes on its website, the GDP per capita continues in low numbers, with respect to the years of government from 2001 to 2016. Now, in this last year 2023 the government has taken drastic measures, it is observed that it has worked together with the Ministry of Economy and Finance, to take corrective measures and in conjunction with the Ministry of Labor and Employment Promotion and the National Superintendence of Tax Administration, have made certain modifications, and have executed Decrees with the rank of Law, Tax Rules, and in this way collect taxes from Micro, Small, Medium and Large Companies in the Country.

The cause of inflation was due to the price increases which affected all economic areas of the nation; Peru for the years 2020 to 2022 was still going through the pandemic, and it brought great changes, some would say positive and others not, the case is that there was the massification of technology which was not yet fully implemented in all areas, turns and processes in business (commercial and production), services and even in the same government with its three branches: The Executive, Legislative and Judicial branches, up to now, continue to have delays in some processes and procedures, products were also paralyzed due to the sanitary emergency of Covid-19, and with it the Norms and Laws that were being implemented to generate economic and trade facilities to the whole country, and also led to all the economic items to raise their prices and thus dragging the country to Inflation. With the aforementioned, all this added up to take other decisions which the current government and its ministers seek to maintain the economic balance, since the decisions that were taken in the past were not adequate and clearly do not favor the economic impulse that the country is looking for. Well, at the beginning of the year 2023, the government in office and together with the Minister of Economy at that time confirmed that the country would enter into Recession, since the government in office continues to modify norms and laws that in some way continue to negatively affect the population, this can be observed in the quarterly GDP, since up to now it does not vary in percentage numbers, and these can be observed in the publications made by the INEI and other institutions/magazines where they publish information on economic growth.

Thus, with everything mentioned in previous paragraphs, it is clear that the lack of economic policies led the country to accelerated inflation (Roman Nalvarte et al., 2021):

> This hyperinflation was caused by continuous fiscal deficits due to high public spending that was aimed at maintaining subsidies and support for state-owned companies, together with the postponement of tax increases, as well as the establishment of exchange rate controls, which led to the loss of international reserves, and the lack of investment by the private sector due to Peru's lack of confidence in its failure to pay its foreign debt to creditors. (p. 2)

Having gone through the pandemic 2020, 2021 and 2022, led to inflation because of the rise in prices of products and services, as well as because of the shortage of inputs for production which also generated the rise in prices; all this led to trigger and take drastic decisions by the Ministry of Economy and Finance and the Central Government of Peru, and by 2023 the Government in turn was pronounced to the entire population that the country would enter into "Recession", this is well known by economists that after an inflation in which the country economically speaking reached its highest point, now to counteract and lead to an economic balance and / or slow down, is to take the decision to guide the country into a recession.

Inflation and Recession

While it is true that by the year 2023 Peru was entering recession as a result of the actions taken as a result of the Pandemic in the year 2020, now entering the fourth quarter of 2023 both the Peruvian country and other Latin American states also entered into recession, since the measures taken as a result of the covi-19 has caused the economy in each of these Latin American countries, peru is no exception, although it is true that the government in office together with the Ministry of Economy and Finance made the decision in which through a report which was disseminated in various media and where they confirmed that the Peruvian country would also enter into recession, this was announced in the first quarter of the year 2023, likewise you can see on the INEI website and statistically corroborate how the country is economically, on this page you can also see and download the complete documentation both statistically and numerically analyzed and corroborated results by departments and projected historically, and how it has been changing over the years, and also the economic growth remained without any variation, in this report can be done through a historical analysis of GDP how some governments of the 80's, and the governments of the years 2020-2023 have in common their economic policies. A clear example, are the great changes that were made worldwide impacting in turn to the economy of the Peruvian country this at the time of the 50's to 80', through the era of the Industrial Revolution which caused a major global change in all economies of the country, likewise if we compare it with the changes that arose after the post Covid stage and entries to 2021 to 2023 the world economy has taken a revolutionary turn leading to a technological era and systematized worldwide, and all this through the management of computer systems, both information, access to services and management of digital currency. These two changes such as the industrial revolution and now the digital technology stage have revolutionized their respective eras, and certain countries were affected both politically and economically. According to the full report, which can be found on the INEI website, Peru went through inflation and recession, which took several years to recover respectively. According to the report *Panorama de la economía peruana 1950-2019*, which was presented in 2020, one of its sections states (INEI, 2020):

Several of the recessions recorded in the Peruvian economy coincide with or have been preceded by international crises, such as the recessions of 1958, 1976 to 1978, 1982, 1983, 1998 and 1999, and the stagnation of 2009. In all these recessions, external factors derived from international crises affected economic activity, which in some cases were attenuated by the macroeconomic policies applied, or aggravated by the impact of the El Niño phenomenon, such as those recorded in 1982, 1983, 1998 and 1999. (p. 44)

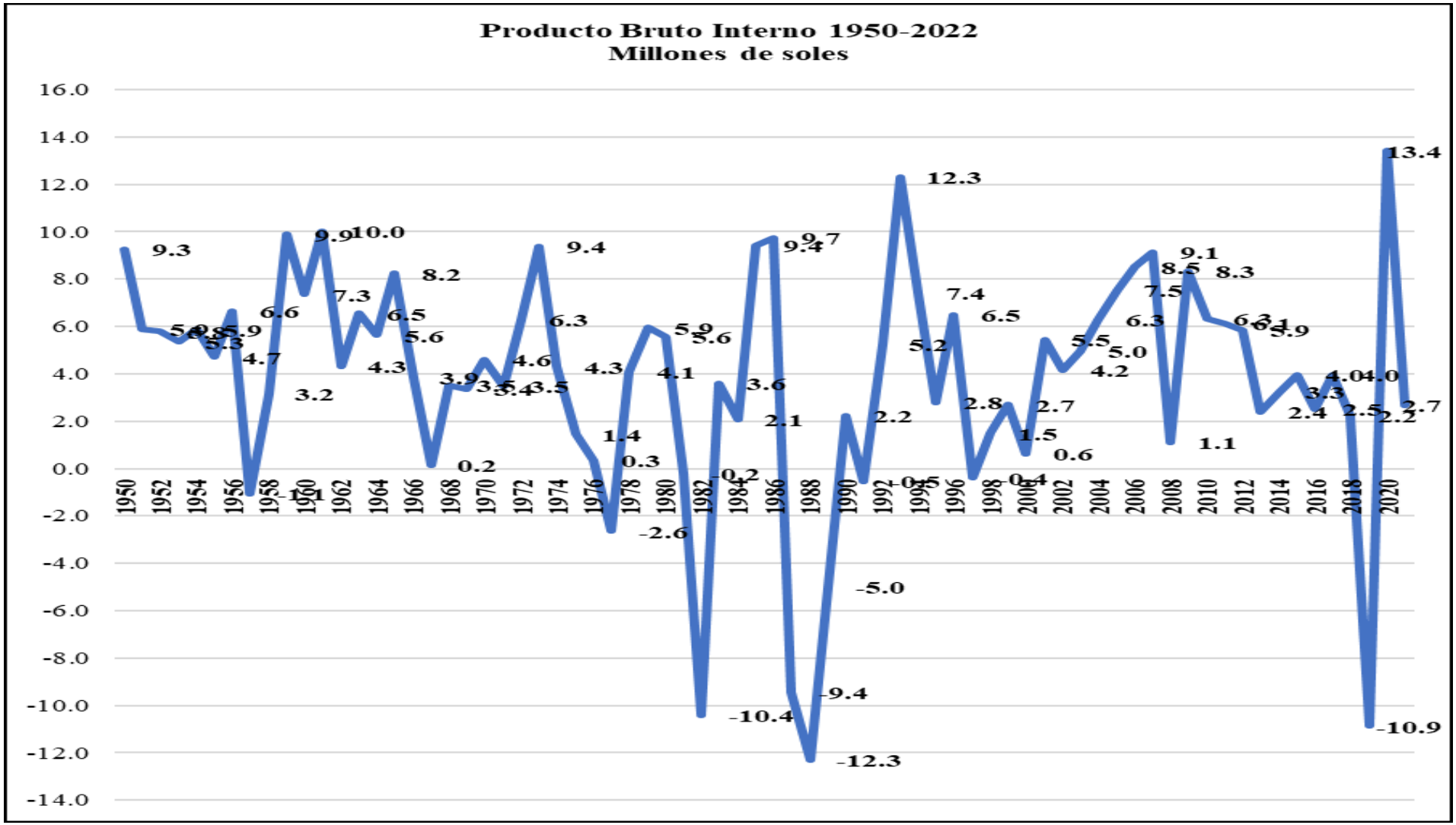
Taking into account this report, the macroeconomic statistics and the internal GDP of the Peruvian country, it can be observed that the country follows a constant pattern both in economic growth and stagnation, curiously and unfortunately also just replicated in the year 2023, entries to the last months of the year the government reported that we will still be with the El Niño phenomenon that will affect the country and directly to the economy, and this will affect all its micro and macroeconomic sectors. Thus, in the report that the state made public, it mentions that (INEI, 2020):

> During 1950-2019, there were decades in which the average growth rate was higher than 5.0%, such as the decades 1951 to 1960, 1961 to 1970, and the decade 2001 to 2010. But there were also others in which the growth rate was less dynamic, such as in the decades 1971 to 1980 and 1991 to 2000; only in the decade 1981 to 1990 was there a negative growth rate. So far in the current decade, 2011 to 2019, an average growth rate of 4.0% has been recorded, lower than the average rate recorded in the previous decade, but which is

> located at a midpoint between the values recorded in the lowest and highest growth decades since 1950. (p. 45)

Thus, in the following two graphs Nº 1 Nº 2, it can be seen how the GDP from 1950-2022 both in Millions of Soles and the GDP per capita in Soles respectively.

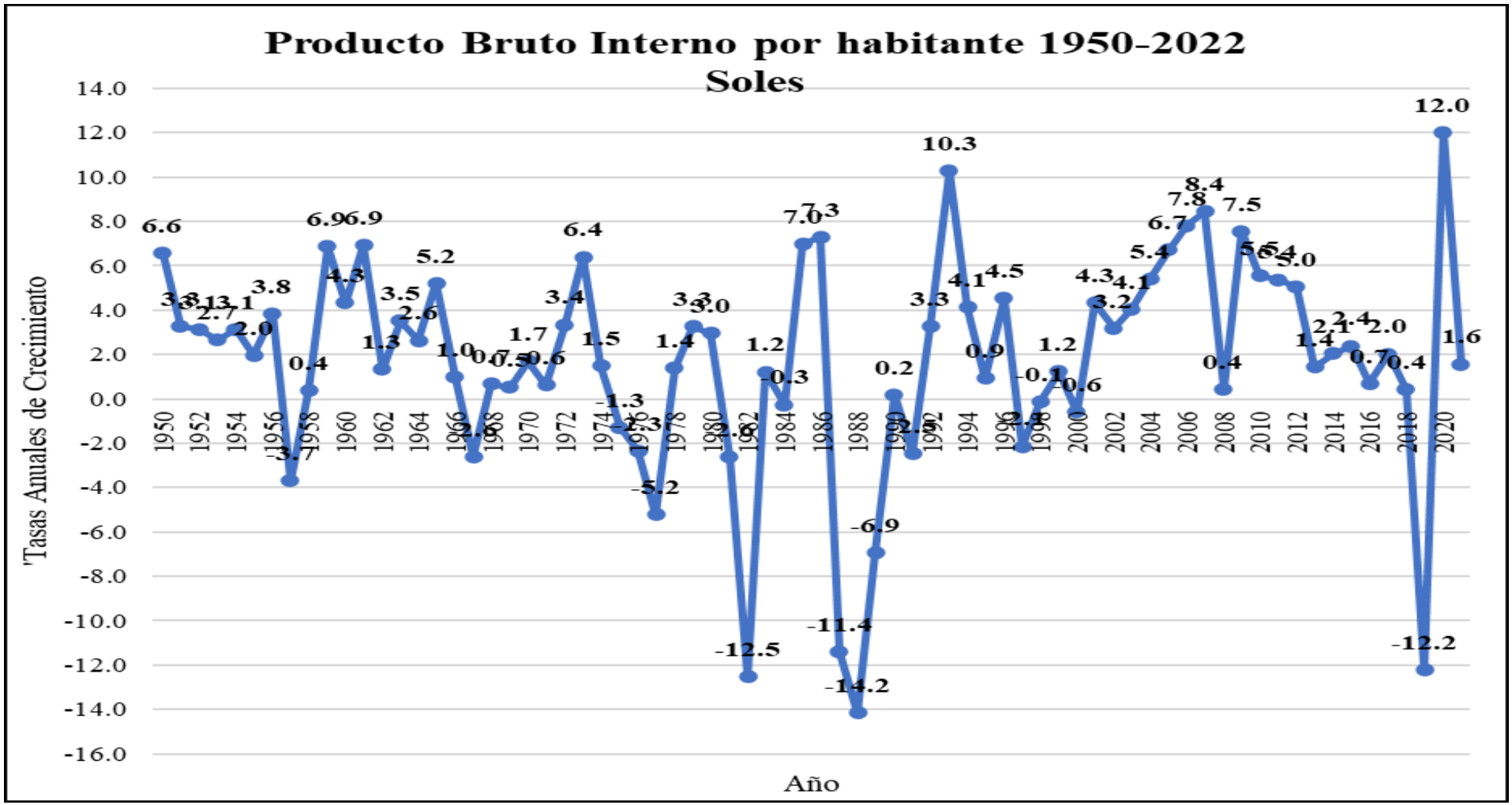
Figure 1
Gross Domestic Product 1950-2022



Note: INEI (2022)

Figure 2

Gross Domestic Product per capita 1950-2022



Note: INEI (2022)

Looking at the above graphs on how the GDP has risen and fallen from 1950-2022, it can be highlighted that, according to Jiménez (2010, p.23):

> The laws of Kaldor and Verdoorn, based on Adam Smith's theory of growth, were fulfilled in the Peruvian economy of the 1950s-1980s. However, since the manufacturing industry did not have and does not have a local sector producing inputs, capital goods and technologies, its leadership faced limits from the external sector.

Thus, industrialization was not a great success for the Peruvian country, since no economic policy measures were taken in accordance with the internal production and its internal and external demand, since most of its production was exported, because there was a great demand, when industrialization appeared, workers earned more and therefore spent more, but all this was for a short time, since the mass production that was demanded at that time which was to be taken abroad did not cover the demand and stock, and all this was reflected in a great loss of demand and in an expense by the Peruvian State, leading to a public deficit and likewise an external debt.

One of the many attempts was and led to the creation of the Industrial Promotion Law of 1959 which provided incentives for investment in industry (mainly through tax exemptions on the importation of equipment and intermediate goods, as well as through tax exemptions on the reinvestment of profits). However, the law was too generous and not very selective. The law enacted in Peru does not discriminate against economic sectors and ended up favoring and benefiting export processing activities and slow-growth industries (such as the textile industry). In reality, the law made no attempt to promote domestic entrepreneurship, and ended up benefiting foreign direct investment in export processing industries.

While it is true, the statistical information of the economic political history of the Peruvian country is common and repetitive, as seen in Figures 1 and 2, the falls in GDP in those years were because there were major changes worldwide, Figures 1 and 2 shows that there is a not very prolonged boom and then move to the fall of GDP, and this is due to the wrong decisions in their economic policies that were taken in those years, if we compare the falls of the years 2021-2022 in which the same pattern is also observed similar falls percentage wise, which shows that economic policies were inappropriate and / or poorly executed. As mentioned in the 50's, industrialization emerged, but the ill-advised decisions made by the government at the time significantly affected the country, bringing with it a high foreign debt and thus leading to a domestic deficit, leading the country to a crisis, and in the words of Jimenez (2010):

> Peru is a typical example of the devastating effect of the fondomonetarist policies. The first significant IMF intervention occurred during the balance of payments crisis of 1958-1959. Restrictive monetary and fiscal policies were applied; subsidies and price regulations were eliminated; and a "free" trade and exchange rate system was introduced - the effects of which were none other than the creation of a general economic recession and the acceleration of inflation. (pp. 33 and 34).
>
> The crisis of this process and the collapse of the per capita gross domestic product during Alan García's first government (1985-1990) to the levels recorded in the years 1959-1960, - the restoration of the primary export model with the application of neoliberal policies and reforms since the early 1990s. With the restoration of this neoliberal model, the gross domestic product per capita increased again to its 1975 level only in 2006 - the manufacturing industry faced increasing costs as it progressed in its development. Consequently, the increases in the price of a barrel of oil in the 1970s and the

> debt crisis of the early 1980s affected its sustainability. For its part, the neoliberal model tertiarized and reprimarized the economy, kept real wages stagnant, and thus neglected the development of the domestic market. (p. 21). The Fund's second major intervention occurred at the end of the first Belaunde administration, 1967-1968. The crisis emerged as a result of the «negative» effect of increasing public spending on the balance of payments - with the intervention of the IMF the public deficit had to be drastically reduced, the sun had to be devalued and ad-hoc policies had to be adopted to guarantee the "free" functioning of the price system. The results were an increase in the inflation rate from 11.8% in 1963-1967 to 18.5% in 1968. (p. 34)

Other authors mention that in the 70's and 80's Peru went through a great economic crisis that affected disproportionate losses, which was reflected in the GDP; most of the economic collapses that the country went through, reflect that after a great fall, drastic changes are made in its economic policy, taking the decision of recession, as shown in figures 1 and 2, these have a V shape that goes from zero to -12%, analyzing the results after a historical economic comparison of the country, which can be corroborated directly by looking at the GDP and its movements of up and down lines reaching a negative sign, this reflects the moment where the country enters into Economic Recession because in order to go up from that negative point it is necessary to change the economic policy, and this happened in the years 1980-1990. This is so as another author mentions that during the periods 1980 to 2004 “the recovery from the deepest collapse that Peru's economy has experienced took 15 years, which evidently shows it a V-shaped crisis” (Gonzalo Llosa & Panizza, 2015, pp. 91)

However, the International Monetary Fund intervened for the third time in order to overcome the crisis that had arisen since the 1950s, and it is worth noting that this third intervention was the longest and most important for Peru, thus Jiménez (2010):

> The Fund's third intervention began in 1976 and lasted until the second Belaunde administration. The current crisis -the longest and most important in Peru's capitalist history- manifested itself in 1975 when debt service covered more than a third of export revenues (34%) and the public deficit reached an unprecedented level of 10% of GDP. The growing trend of debt and imports was intensified in the 1970s causing the deepest balance of payments crisis: the current account deficit reached in 1975 its highest level as a percentage of GDP (10%), the "free" market system was imposed in the external sector to "balance" the exchange rate and the government was committed to generate a surplus of 2% of GDP in 1978. (p. 34).

As can be seen in the previous paragraph, no matter how hard the government tried to reduce and refinance the debt, not much could be done. Thus, one of the measures taken by the government in power, who presided over it in those years, was a military man who assumed the presidency by means of a coup d'état, General Morales Bermudez. After all, in the end it was not possible to reduce the debt and the devaluation of the Sun's currency. Thus, not all economic theory has a positive effect for some countries, according to Jiménez (2010):

> Conventional economic theory appeared in the minds of the men of government as logically appropriate for the solution of the crisis; however, this was no more than the conservative free market ideology later shared by the Belaunde administration and which facilitated the so-called redemocratization process.(p. 35)

In order for a government to make the decision to go into recession, a prior economic and historical analysis of the GDP of the previous years, and analyzing the

economic policies that were taken and those that had a positive effect can be applied at present, also comparing them with the type of government and policy of the ruler in office. Thus, according to Gonzalo Llosa & Panizza (2015):

> Our results suggest that the external shocks that affected the economy in the 1980s were amplified by a weak and fragmented political system, limited entrepreneurial capacity and the lack of a coherent industrial policy that could lead to the discovery of new productive activities. (p. 92).

If we compare the revolutionary changes, the similarities in the economic policy decisions taken in the 80's versus the years 2020-2023, and investigate the history of those years both economically and politically, and the decisions that were taken, because the causes that led to an economic crisis in the country, was not only the effect of the global economic crisis, but also the shortage of raw materials and fertilizers, because being a purely agricultural country, these inputs are necessary so far, and not to mention the current political crisis that has been going through; the country since 2020 until today and the changes of government, the economic policies taken by each different ruler in turn have directly affected the population and its entire economy. Thus, Figure 1 shows three very pronounced drops from 1987 to 1990, which date back to the 1960s when the economic crisis was below 0% in GDP per capita.

Now, as mentioned in this article, the wrong economic policy decisions have directly affected the laws, regulations, resolutions and amendments enacted by the executive branch. All these changes reflect and go back to the past, to the year 1959, where under the name of Industrial Promotion it gave way to endless economic problems and inequality between sectors, as a result of which those who benefited and took advantage were those who had the greatest capacity to supply the demand, and to face the crisis of those years and the boom. Thus, Jiménez (2010):

> The external deficit as a percentage of GDP increased from 6.9 in 1979 to 8.3 in 1981 and 1982, and to 9.3 in 1983. The growth rate declined from 4.6% in 1970-1975 to 3% in 1976-1980, and to - 2% in the last three years. The inflation rate increased from 57% in 1981 to 65.2% in 1982. On the other hand, the president of the Central Bank at that time announced that the public deficit would reach 10% of GDP and that it would increase by 3 points in 1985. This announcement was made when international creditors decided to avoid new loan contracts with Peru, at a time when domestic savings were below 7% of GDP as a result of the recession and when the inflation rate from September 1983 to September 1984 reached 99.9%.(p. 36).

Therefore, following the line of what has been referred to in previous lines, regarding inflation and its possible causes, other researchers refer to Roca (2008):

> In recent months, the rapid increase in prices in Peru has generated much concern among academics and authorities, but in reality, it has already been causing discomfort to millions of poor families who, with the same salaries, have seen how the prices of the products they frequently consume, especially food, have risen significantly. The net effect is that they are now able to buy only a smaller portion of what they could afford less than a year ago, which may aggravate the malnutrition problems of these low-income sectors.(p.3).

It is true that inflation arises from an increase in prices, services and the value of money, i.e. the population has money to spend, but government policies do not intervene to counteract the excess of currencies in the country, thus it is assumed that production should also increase, which did happen, but most of it went abroad because demand was greater, as Roca (2008) refers:

> Among the external factors is the persistent increase in the prices of various agricultural products, minerals and fuels, which are rising due to the accelerated growth of countries such as China and India, which require more raw materials and fuels, raising their prices.
>
> On the other hand, the higher income of Asian countries increases their purchasing power, raising their demand for many agricultural products, which puts even more upward pressure on prices in world markets. The increase in demand for fuels is so strong that it has driven up the prices of other sources of agricultural biofuels such as corn and soybeans. In addition, many farmers prefer to use more land for these products, reducing the production of other foods and reducing the supply of the latter with the consequent increase in their prices. As wheat, which is mostly imported, the increase in its price in world markets increases the cost of bread production in our country. Something similar occurs with corn and soybeans, which are imported and used both for raising chickens and for oil production, thus affecting production costs and the final prices of these products. (p. 7).

Another cause was the external economic situation, which also had a substantial influence, as reported by Félix Solano et al. (2022):

> In addition, another reason for this increase in inflation is the armed conflict between Russia and Ukraine, countries that supply fuel worldwide, due to which the price of fuel increased considerably, which caused a rise in the cost of transportation services. Another reason for this increase is the increase in freight costs because the world's largest port, located in China, limited its operations due to restrictions imposed by the Chinese government in response to fears of an increase in COVID-19 infections (p. 22).

This is how the economic crisis is observed, which began in the 50's and then went from inflation, then to a recession, where both dragged an internal fiscal indebtedness, the devaluation of the currency, the employment crisis and the wrong decisions by the rulers in turn of those years, and those who are also taking the current ruler of the country, I mention rulers because so far after the elections and the dismissal of Pedro Castillo, the vice president Dina Boluarte came to govern.

As referred by the authors Gonzalo Llosa & Panizza (2015) we can reflect with what has happened since the 2020s to the present, since the government is giving benefits to foreign companies to invest in the country, and thus seek to boost the economy, likewise withdrawing the IGV in some inputs of basic necessity, which is not reflected in the decrease in the costs of products, on the contrary, foreign companies that supply inputs to the country have certain incentives and low or no tax payments, likewise the government has decreased the rate of IGV in some economic sectors such as service and tourism, and all this has affected and the population is affected, because it sees the difference between sectors, and so most prefer to change their business and prefer to work from home. Thus, if we compare these two realities of what happened in the years 59´ and what is happening in 2023, we can clearly see that the economic policy decisions taken by the government in office both in 1959 and in 2023, reflect a certain pattern, which is not a mere coincidence, but it could even be said that these rulers see and make the decisions of their ruling ancestors, and which leads to all this being reflected in the GDP and its economic fall and consequently to a Recession.

As for the recession, the opposite is true; there is a decrease and reduction in economic activity, which can be seen in the decline of the country's Gross Domestic Product. It is true, the emergence of recession does not come out of nowhere and/or from a type of government policy, it comes from an inflationary crisis, and in order to curb this

rise in prices, the governments in office take drastic decisions, which are curiously repeated every decade. "Macroeconomic mismanagement is clearly illustrated by both the history of high inflation rates in the 1970s and early 1980s that culminated in hyperinflation in the 1980s, as well as dismal fiscal performance" (Gonzalo Llosa & Panizza, 2015, p.102).

Since 2020, the excessive loans and indebtedness with other countries, which supply the country with medicines and raw materials, and added to the bonds that were granted massively so that the population would not suffer the ravages of the stagnation of the labor stoppage in various economic sectors of the country, this led to the state treasury being in deficit, the changes in the government's economic policy and the need to collect taxes from the other economic sectors that did not paralyze their businesses has not been possible to continue to maintain, all this led the Peruvian government to make the decision to declare itself in economic recession.

This is not the first time this has happened in Peru: "Moving on to the 19th century, Heraclio Bonilla reminds us how excessive optimism leads to excessive indebtedness, which is the origin of crises." According to (Jaramillo Baanante, 1986, p. 221)

Jaramillo Baanante (1986) also states that:

> Until the arrival of the Kemmerer mission (1931), economic policy did not change substantially, except that the financing of the high public spending was now provided through internal debt. With the Kemmerer mission, a recessionary policy was implemented, the effects of which, according to the author, were disastrous: deflation, unemployment, decreased demand and a general slowdown in economic activity (p. 223)

Thus, an analysis of Peru's political and economic history shows that this is not the first time that something like this has happened to the country, and that it usually happens every decade. Taking large companies as an example, what happens when large, medium, small and micro companies reach their maximum growth and then have to seek improvements, innovate and implement new tools to update them to the new digital era, something like this is what happens with the growth of the country, even more so today the growth of the country is related to economic growth - technological worldwide.

As mentioned by Jaramillo Baanante (1986):

> Perhaps this was partly due to the fact that this sector was coming from a crisis during the 1920s that "prepared" it for the crisis at the beginning of the following decade. On the other hand, this also draws our attention to the need for a more complete approach to the effects of the 1930's crisis that differentiates the impact on the different productive sectors. (p. 223)

It is true that affected us, both the population, businesses and government was the adaptation to technological mechanisms and their use in all services and jobs, because we were always accustomed to work and services person to person, or business to business, because with the arrival of the pandemic in 2020 all this changed: as are the remote jobs, such as direct services to home, the restrictions of schedules, and likewise the paralysis of certain economic sectors, as well as in the years of economic crisis as what happened in 75' to 90', as Thorp and Bertram (1978, p. 397-398):

> [local capacity to innovate and adapt technology, endogenous means in contrast to external sources of economic dynamism, and economic policies that support integral growth. The consolidation of such a base would have allowed the economy to survive the moments of failure of the export mechanism without paying a high price for growth [...] It would also have prepared the economy to face more complex

and larger scale investment projects necessary to maintain the development of the export sector.

This is how another author explains the recession in the country, and gives it a special meaning, Martel Carranza & Torero Solano de Martel (2023), the key now is to understand the meaning of the word "recession" and how this economic phase will impact our pockets and our families. The analysis is therefore not limited to the definition of the term, but also involves generating preventive measures to avoid the impact of the recession being detrimental to Peruvian citizens. An economy goes through different phases, with favorable and unfavorable periods, in which it experiences dynamism or expansion, as well as contraction. These stages include expansion, recession, depression and economic recovery (Pinta et al., 2022). It is also crucial to understand the difference between recession, depression and economic crisis, as miscommunication can create uncertainty in families. For example, a recession is defined as a contraction of GDP in two consecutive quarters, while a depression occurs when a recession lasts for three years or when GDP falls by 10%. In contrast, when we speak of economic crisis we refer to a period of significant decline in the economic activity of a country or region, characterized by contraction in production, employment, investment and other key indicators. These crises are usually accompanied by a decline in GDP growth, rising unemployment and a series of financial problems (p. 1, 2)

As mentioned in the previous paragraphs of the quote and compare with those mentioned with the previous ones we can clearly see that the lack of technological adaptation and economic policies has impacted us strongly, being 2023 and having a recession of which it is not known how long it will take and will return to grow the GDP of Peru, having debts with other countries, over indebtedness and a lack of financing, as well as the labor problem, the emergence of technological mechanisms (robots) that are responsible for performing certain activities in which the hand of man is no longer necessary, all this accumulation makes it clear that the country will have problems adapting to the new changes that are being implemented today.

> The expectations formed over time present with respect to a variable, in the next time period, is viewed as an average weight of all previous values of that variable- The adaptive expectations hypothesis can be expressed more succinctly in the form of the equation. (Parking, 2008, p. 15).

Method

After all that has been mentioned in previous pages and looking at Figure 1 and 2 of Peru's GDP per capita from the 50's to 2022. It is time to carry out a qualitative analysis, of the historical type, having as variable those already mentioned in the introduction, so as the model of adaptive expectations and that according to Cagan (1956):

> He hypothesized that the change in prices depends on the change in the expected rate of price change under the assumption that current price movements reflect changes in the quantity of money both present and past. (p. 27).

Thus, looking at Figures 1 and 2, and knowing the political history of each period in which there was inflation and recession, we can observe a common variable which is the price and value of money.

Explanatory Research

The one used for this article will be the Explanatory Research that according to Behar Rivero (2008):

> This type of research, which requires the combination of analytical and synthetic methods, in conjunction with deductive and inductive methods, attempts to answer or account for the whys and wherefores of the object under investigation. In addition to describing the phenomenon, they seek to explain the behavior of the variables. Its methodology is basically quantitative, and its ultimate goal is the discovery of causes. (p. 21)

It can be said that it is one of the most used, even though we apply it together with the arithmetic mean, it can be projected for a future analysis within the next 3 years, since historical data on GDP and GDP per inhabitant will be used. Thus, as also mentioned by Roman Nalvarte et al. (2021)

> The rational expectations theory uses all the information available to it under the structure in which economic agents find themselves to estimate inflation. For the case of the determinants of long-term inflation, the quantitative theory of money will be used, where the relationship between the price level of an economy and the quantity of money in circulation is observed. (p. 5).

In this sense, for this research to have more relevant weight, more research has been done on the Recession and the relationship between the GDP and the Economic Policies, that is why this article has quantitative information from the 50´ to 2022 which is observed in Figure 1 and 2 of this article, likewise also with this data we want to perform a deeper analysis of the type of Non Experimental Research Study because according to "In them the researcher observes the phenomena as they occur naturally, without intervening in its development" (Behar Rivero, 2008, pág. 19)likewise, to see the differences between a government and the economic political relationship that were taken in those times and compare them with the current Economic Policy decision that the current government is taking in turn 2023, also to analyze the lowest peaks and compare them with the GDP data of 2022.

Historical Logical Method

This is why the Historical-Logical Method will be used, which according to Behar Rivero (2008):

> The historical method of research can be applied not only to the discipline that is generally called history, but it is also possible to use it to ensure the meaning and reliability of past events in the natural and basic sciences, medicine, law or any other scientific discipline. The historical method will help us to establish the existing relationships between the events that occurred in the development of these sciences. (p. 41).

As can be seen in the first figure, where the country reached a lower peak of -10 points in the 80's and now in the year 2020 there was also a drop of -10 points, leading to a recession in the 80's which affected the entire population and was disseminated worldwide, the same happens for the years 2020-2023 where at the end of 2023 the country entered a recession. Now, the government is taking the historical review of how the country recovered and what economic measures were taken in those years and what were the results for its recovery, as it is known, economists collect information from the statistical information base of INE, as well as reports and articles from other institutions, such as the Central Reserve Bank of Peru, and according to the article published by this institution and those who conduct this research, it is thus that Mendoza Pérez & Morales Vásquez (2013) refer:

> A recessionary or expansionary phase is just beginning. First, because these phases are not directly observable phenomena and must be inferred from a

series of economic variables. Second, because some of the most informative variables on these phases are published with months of delay, the most salient case being the Gross Domestic Product (GDP) - Leading indicators provide quantitative and not qualitative information about the economic cycle, the latter being perhaps more important for decision making. (p. 81, 82).

Results

It was observed through the statistical data of the INEI which was reflected in Figures 1 and 2, which are in previous pages of this article, and then analyze in general, and know what were the causes for these governments of those years to take these economic policies, also analyzed the corrective measures that were taken at that time, the analysis was also made to know what was the cause for these rulers decided to change their economic policies of government, which was in a stage of inflation to a state in recession, also observed the similarities of the actions and reactions of both the population and the governments of those years 1980-1990 versus the years 2020-2023. That is why, under the premise that "every action has a reaction," as the phrase "every cause has an effect," is how a quantitative type of research is supported by a numerical analysis which shows real information with the sole purpose of demonstrating reality and this is clearly observed in Figure 1 and 2 of the article. It is conclusive in its purpose since it tries to quantify the problem and understand how widespread it is by searching for results that can be projected to a larger population by looking at a qualitative approach, it is how the past (statistical data from the INEI) serves as a learning experience, since in this specific case, although these are new times, our traditions and culture (economic and political) have not yet changed. Therefore in this article will focus basically on a qualitative approach as we have quantitative information, which helped us to analyze the variations of GDP which only remained for us to analyze and buy, see and relate what are the economic policy differences and similarities, thanks to the INEI data which shows us the variations of GDP in different years where there was inflation and recession, all this is analyzing Figure 1 where the overall Gross Domestic Product of the country has given high positive peaks as well as negative, this is also observed the same variations of high positive peaks for the country and its population economically speaking, as well as low peaks which reach a maximum of -12% and this can be seen in Figure 2 of this research article which is a data of the Per Capita GDP of Peru, also highlight that this statistical information is with which most economists, specialized statisticians and politicians in general work and have as reference to support the changes in prices, expenses, budgets, foreign income, also changes in economic policies such as: laws, norms, resolutions, regulations, articles, etc.

Following the qualitative approach, a comparative analysis of the years 1980-1989 versus the years 2020-2023 has been carried out

Table 1
Comparison of Peru's Economic Policy

Years 1980-1990	**Year 2020**
President: - Fernando Belaúnde Terry (1980-1985): in his second government, the most relevant thing was that the political	President: - Pedro Pablo Kuczynski Godard (28.07.2016 - 23.03.2018)

parties, as there were conflicts and disagreements between them, supported those on the left or those on the right. Also in terms of society, the peasant organizations were formalized, since the second president's government opted for a democratic policy.

Politically speaking, the country went through several conflicts that affected the country, problems with Cuba, the conflict with Ecuador, the Falklands War and the Shining Path; everything mentioned above affected the country's economy and its exports and imports, which is why at the end of President Belaúnde's government, *the GDP ended up falling below -9.4 points (1988) and -12.3 points (1989).*

- Alan García Pérez (1985-1990): in his first government he stood out for being a young president; he took measures that in his first years were good because he reduced inflation and this was because some economic sectors such as: manufacturing, construction, and agriculture grew because the government granted subsidies, and it is well known that when there is no income, which is obtained from the collection of taxes that are obtained from the production and marketing of those sectors which were subsidized, well what happens is that the state coffers are left in deficit, and the state will not be able to meet its expenses within the country, much less with the foreign debt that it has with other countries.

The economic policy chosen by the president was not the right one, as he also reduced the payment of his foreign debt, issued too much national currency, which caused the dollar to lose value. Some mention that the president's government was characterized by Marxist politics, as it presented socialist ideas, and also tried to nationalize private banks to control hyperinflation, and unlike the first years of government for the last years, the country's currency was devalued.

- Alberto Fujimori (1990-1995): in his first government he brought about

- Martín Alberto Vizcarra Cornejo (23.03.2018 - 09.11.2020)
- Manuel Arturo Merino De Lama (10.11.2020 - 15.11.2020)
- Francisco Rafael Sagasti Hochhausler (11/17/2020 - 07/28/2021)

Mentioning the list of presidents that passed in less than 5 years is relevant, as it is the reason why the country will become, in the eyes of foreign investors and other countries of the world, an unlikely and politically and economically unstable Peru.

While the country tried to maintain political stability, corruption within the government had come to light so blatantly that it was impossible to cover up. Thus, the Peruvian country was seen worldwide as a corrupt and unstable state to invest and conduct or set up a business.

Now, speaking from a political and economic point of view, this was affected by the pandemic that began in mid-March 2020, the paralysis of the areas of production, marketing and extraction of oil and minerals and the service sector, as well as the paralysis of work in private companies as well as in the state sector, all of which were affected.

Although in this case the time, the difference in years, the technological and scientific information is very different in great magnitude, and it is also different because the government of Presidents Fernando Belaúnde Terry and Alan García Pérez each went through different political and economic problems, but what stands out and is clearly seen within these government policies were the decisions that were taken, because it should be noted that there is a great similarity in how it was handled.

In this case, since the presidents that passed from 2020 to 2021, took economic policy decisions just to calm the population, and the way they did it was by granting bonuses, eliminating the IGV, ISC to some mass consumption products, and modifying certain tax articles and granting benefits to the service sector, thus leading

many political changes such as the closing of the congress, which in some way was an economic benefit since there was no longer a budget for the payment of more than 180 congressmen. Another significant change economically speaking, was the opening of a free market where the importer and exporter could trade freely, also boosting the investment of foreign companies so they could come to the country and generate greater economic dynamism, as these foreign companies would not only come to invest by creating stores or products, but also bringing new and more sophisticated machinery, in turn these companies hire local labor. With all this, the debt and the deficit that the previous government had left behind were reduced, so with these new reforms and the new Political Constitution of Peru in 1993, economic growth emerged for the country.

to inequality between sectors and tax regimes, and also raising the market base salary.

With all this mentioned in previous paragraphs, it is clear that by granting so many benefits and not having income in the state coffers, therefore the state could not cover its expenses, which it obtained with foreign countries and foreign companies, because Peru had to get into debt to be able to request medicines, vaccines, since Covid-19 was taking away part of the Peruvian population. This is the reason why the country went into inflation, not only because of the work stoppage but also because of the debt that the state has.

- Pedro Castillo (2021-2022)
- Dina Boluarte (2022-present)

However, former President Castillo was only in office for a short time and did not make significant changes. The current President Boluarte is making significant changes at the economic policy level within her ministry, because for now the economy is moving thanks to the fact that the population needs to work and generate income for their families, but one of the obstacles observed in terms of formal trade, is the lack of stable rules that encourage workers to undertake and invest in their own country. The Peruvian country is being portrayed as an unstable nation and unlikely to invest, which is causing the population great discomfort.

Similarities - Similarities (Inflation - Recession)

- Subsidies
- Elimination of Taxes
- Bonus Awards
- Foreign debt
- Increase in spending due to lack of tax collection
- Salary increases

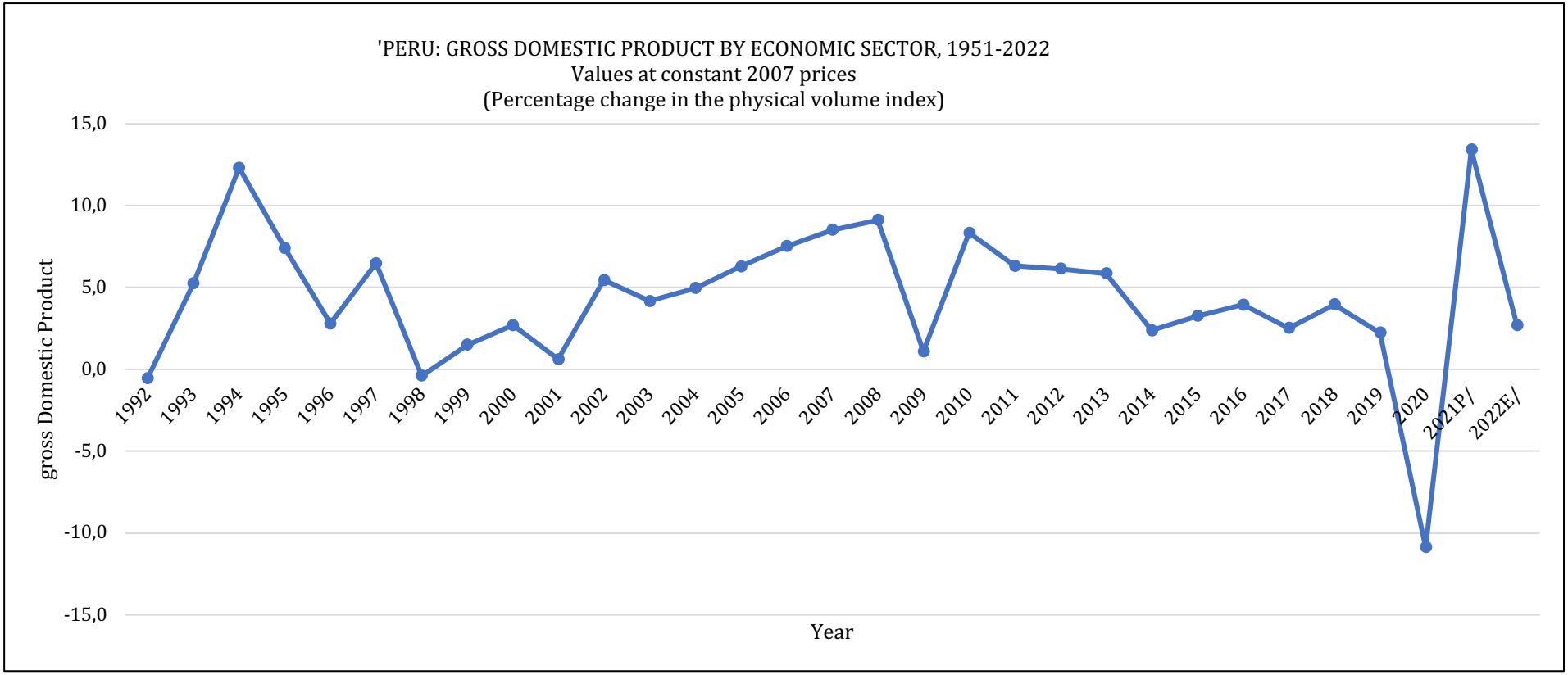
All these points mentioned above led to inflation in the country, now well after that, corrective measures were taken which were drastic, as the changes in the rules, creation of laws to help recover and enter money into the coffers of the state, these economic reforms are causing many of the sectors of the country's economy are affected, to take in some cases the closure of some businesses. Something like this happened in the 90's with the presidency of Alberto Fujimori in his first government, because for the first years the change he made was radical, he closed the congress and changed the political constitution of Peru in 1993, these changes were drastic at first,

but over time we could see the stability and growth of the economy in its most affected sectors, likewise with the capture of the maximum leader of terrorism, the country was seen abroad as a stable and good country to invest in. One of the changes which helped the economy to re-emerge was the free market and the entry of private companies and their investment in the Peruvian country. This is how now in 2023, where the country has just entered into recession and the current government is taking measures similar to those taken by President Fujimori in the 1990s, such as changes in economic reform and technology, as well as changes in the rules, laws of the constitution and economic law, of course with different approaches because now we live because of technological changes and artificial intelligence, as this somehow helps the growth of the country's economy, it only remains that the population can adapt, and this requires time.

If you want to observe graphically the lowest points which led to be referred to as a country in economic inflation, according to Figure 3, it can be seen that for 2020-2021 the lowest drop after several decades which led the country to take drastic measures to raise these percentages to positive points is as shown in Figure 4 as for 2023 after several quarters of lows could be resumed to positive numbers.

Figure 3

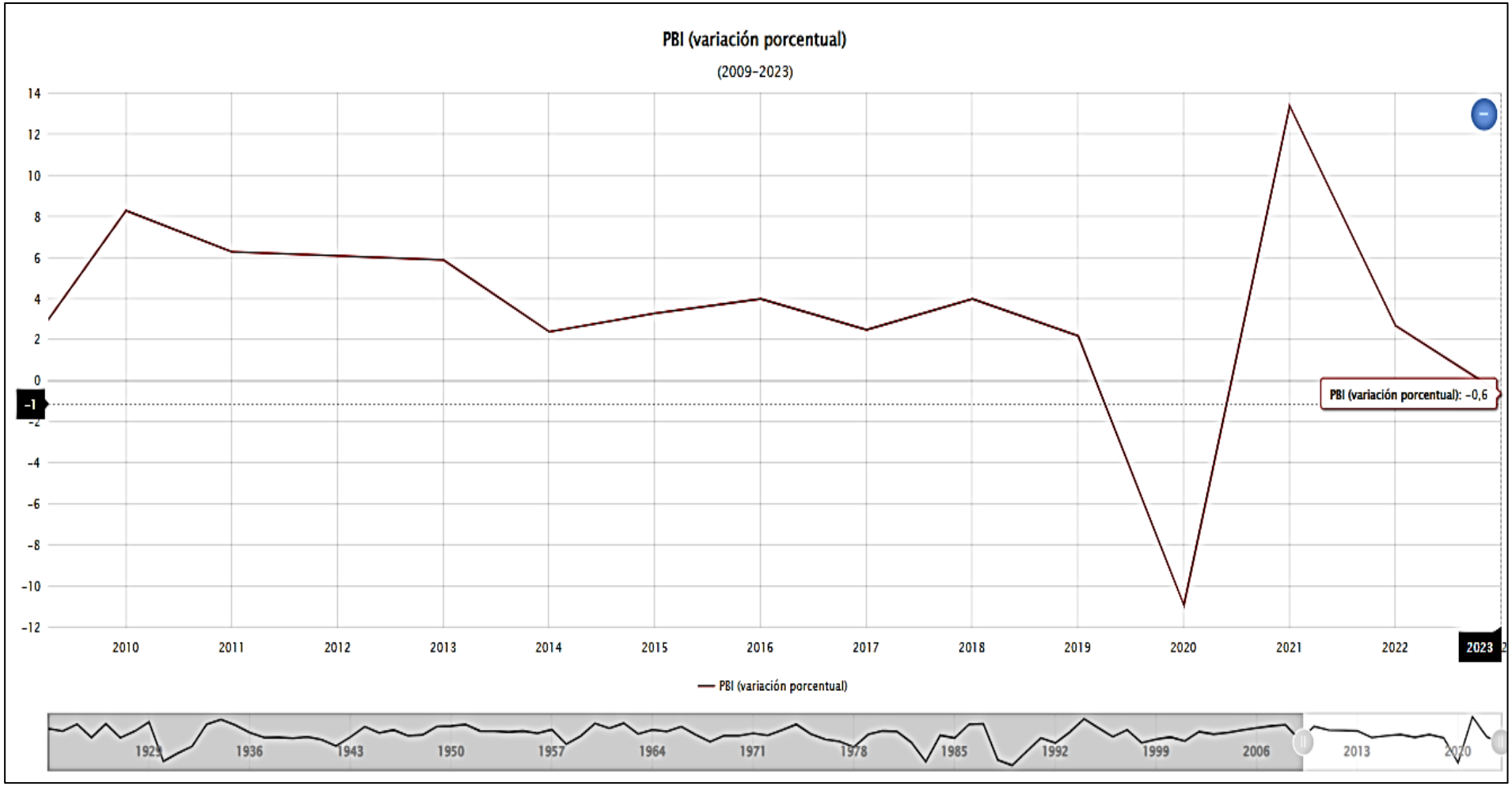
Gross Domestic Product 1951-2022



Note. National Institute of Statistics and Informatics.

Figure 3

Gross Domestic Product 2009-2023



Note: Central Reserve Bank of Peru

Conclusion

The history of the Peruvian country is marked by its culture-politics this speaking only in the Political Economic, because the governments apply policies that previously another ruler used it, to believe that it can be good to apply such macroeconomic and technological changes is complicated and difficult, seeing from the Political Economic point if it is a great margin of years of difference of what happened in the years 1980-1989 and compare with the years 2020-2023 it is known and observed that most economists use methods with historical basis as is the INEI data and GDP; for this research article this information was also used, but what cannot be accepted is that these changes could be positive since in recent years there have been great changes in technology and trade, and that we are living in these moments, both the political decisions that were taken in the governments of the years 1980-1989 led the country from inflation, and then to a recession to leverage the fall of GDP with a radical change in the constitution in 1993.

Comparing with what was mentioned above and with some similarity in the year 2020 and not so much by a decision to close the market which was what happened in 1985 by President Garcia, but now in the year 2020 was due to the product of the pandemic, there were decrees with the rank of law where restrictions were enacted to take care of the health of the population, likewise, the market was paralyzed nationally and globally, at the same time the country was going through political problems of governments that affect the stability of the nation, the changes of government in the Peruvian country in less than 5 years came to be seen abroad and be classified as an unstable country and difficult to invest in it.

Both in the 1990's and now 2020-2023 Peru's slow recovery was related to changes in economic policy; added to the current problems of the government and the inability to decide on the part of the rulers in office, which lead to economic reforms that drastically affect the population: tax reforms, laws, technological changes are affecting the entire population, currently the Ministry of Economy and Finance expects the country to grow by 5% of GDP, this is only to give hope to the population and investors so that they do not withdraw their investments, and thus continue to energize the economy in the country.

The conclusion reached is that there is no single cause for inflation, and it is a whole process of decision making where a contingency plan must be foreseen; also the environment, the population's needs, terrorism, health, etc., all lead to the appearance or collapse of GDP growth in Peru.

For the Executive to make the decision to announce that the country was going into recession was because there would be a change in political decisions, laws, and economic norms which would affect the entire population of Peru, a recession or also called an economic recovery is necessary to stabilize the economy and government policy, both for the business sector and also for investment and to be seen in other countries as a stable and good country to invest, all this will be possible by adopting economic policies and stimulating the domestic economic sector, as it is the most affected so far.

Discussion

Although the periods are different in terms of the comparative of economic policy decisions taken in those years 1980-1989, and relating them to those taken in the 2020s, it is worth noting and highlighting that until now the Peruvian population has a very

marked culture and ideology politically speaking, perhaps that is why the population is reluctant to economic and technological changes.

What is being discussed is basically; the lack of economic culture and empathy between the different races, ethnicities and regions within the country, that is why in the 2020 elections they elected one of the Left party, which said ruler marked his government policies and in turn brought difficulties in matters of economic political nature, since the reforms and changes in laws, regulations and articles of the constitution modified the stability and dynamism in the country's economy.

It is true that by 2023 the Peruvian economy will continue to recover steadily, but this will not be possible if repetitive economic policies that have not led to anything positive are maintained. The population is still reluctant to trust the state and its rulers, as corruption still persists within the presidential bench, and it has also been seen that the economic policies that have been taken are only to "put out the fire", so far the central government and its ministers have not found a way to counteract the fall of the GDP.

With what was referred to in previous lines regarding inflation and then experience a recession, the causes are several within the Peruvian country such as the lack of economic policies such as public spending, corruption inside and outside the government, in turn the lack of security, political instability which affects the entrepreneur, the failed decisions regarding the revival and poverty reduction, these are some of the causes that led to decide to 2023 to declare a recession.

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