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Former Peruvian President Fujimori Convicted of Crimes Against Humanity

by Elsa Chanduóí Jaña

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After a 17-year tireless struggle, relatives of nine students and a professor from the Universidad Nacional de Educacion Enrique Guzman y Valle, known as La Cantuta, who were assassinated by a military death squad during the administration of former President Alberto Fujimori (1990-2000), feel that justice has been served with the sentence handed down by the Corte Suprema de Justicia (CSJ) against the person ultimately responsible for the crime. On April 7, Fujimori was sentenced to 25 years in prison for the 1992 deaths of the La Cantuta victims and for three other cases of human rights violations. Fujimori is the first former head of state convicted of crimes against humanity by a court within his own country.

Victims' relatives satisfied with verdict

"We relatives feel genuinely satisfied knowing that the 17 years of effort and dedication were worth it, worth the wait, the pain of counting on justice in our country, which today has given us back the trust, the credibility that we lost during so many years of impunity," Gisela Ortiz told NotiSur. Ortiz's brother, Enrique, was one of the La Cantuta students assassinated by the clandestine Grupo Colina military death squad (see NotiSur, 2001-09-07).

The historic trial began Dec. 10, 2007, International Human Rights Day, and, after 16 months of oral testimony, the CSJ's Sala Penal Especial, presided by Justice Cesar San Martin Castro, unanimously condemned Fujimori to the maximum sentence allowed under Peru's Penal Code for human rights violations. Throughout the process, Fujimori's defense lawyers, prosecutors, and civil lawyers for the victims acknowledged that the trial respected due judicial process.

The ruling sentenced the 70-year-old Fujimori for *autoria mediata* (command responsibility) in the assassinations of the nine La Cantuta students, the professor, and 15 others, including an eight-year-old boy, also executed by Grupo Colina in 1991 in Barrios Altos, a poor Lima neighborhood. *Autoria mediata* is attributed to those who have command responsibility, the power to order and direct the systems and individuals who commit crimes or human rights violations.

The court also found Fujimori guilty of the kidnapping, with aggravating circumstances, of journalist Gustavo Gorriti and businessman Samuel Dyer, after Fujimori's April 5, 1992, self-coup (see NotiSur, 2002-07-07, 2003-04-06)). In their ruling, the judges also said that "the crimes of homicide and serious bodily harm constitute crimes against humanity according to International Criminal Law." Based on those findings, the court imposed a prison sentence that "will end Feb. 10, 2032." "This gives satisfaction not only to the Barrios Altos and La Cantuta victims but to all victims [of human rights violations] throughout Peru," Fedor Manoz, brother of assassinated La Cantuta professor Hugo Munoz Sanchez, told NotiSur.

Francisco Soberon, president of the Asociacion Pro Derechos Humanos (APRODEH), one of the human rights organizations that have accompanied the victims' families throughout the process to find justice, concurred.

"The heroes of these historic sessions are the relatives. Their strength, their valor, their perseverance, their courage is what has empowered all of us who have been involved in one way or another during these 17 years of struggle for justice and against impunity. We pay homage to all the victims' families in the cases in which our human rights organizations have been involved," said Soberon at the press conference held by relatives and their lawyers and international observers just after the verdict.

"I am satisfied that he has been convicted and the penalty sets an example so these things do not happen again. Today I heard that it has also been proven that Grupo Colina is responsible for assassinating our relatives," Carmen Barrientos Velazquez told NotiSur.

Barrientos Velazquez is the sister of two of the nine campesinos from the Santa province on the northern coast of Peru who were disappeared and assassinated by Grupo Colina on May 2, 1992, one of the many cases the human rights organizations have followed. Dignity restored One enormously important aspect of this sentence is that it restores the dignity of the Barrios Altos and La Cantuta victims by officially recognizing that they did not belong to any terrorist organization and, therefore, were not terrorists, contrary to charges made by Fujimori supporters from the time the incidents occurred as a way to justify the crimes.

"My son's good name has now been restored, I will lift my head once more and say that my son is not a terrorist. My son was studying at the university where everyone said they were terrorists, but that is a lie. As a mother, from the moment he disappeared, I said he was innocent. They had no right to kill him," Raida Condor, mother of La Cantuta student Armando Amaro Condor, told NotiSur.

The civil lawyers had asked the court to clarify that the Barrios Altos and La Cantuta victims were not members of any terrorist organization. "The state through the judiciary must offer an explanation and expressly and unequivocally state that that was not the truth and that the Barrios Altos and La Cantuta victims were not terrorists," said lawyer Ronald Gamarra Herrera, executive director of the Coordinadora Nacional de Derechos Humanos (CNDH), in his closing arguments.

"For us, a fundamental part of the sentence is restoring the victims' dignity. For years the victims and their families were abused with allegations that they had been subversives, that these people had been involved in some criminal attacks. Nevertheless, today it was made clear that they were innocent victims, that they were people selected to answer for subversion but they had no ties to it," said civil lawyer and APRODEH member Gloria Cano to the press immediately after the sentence.

The court also ordered Fujimori to pay 62,400 nuevos soles (US\$20,800) each in material damages to two of those injured in the Barrios Altos and La Cantuta cases. The court determined that it would not award damages to the other injury victims because the matter was already decided by the Inter-American Court on Human Rights (IACHR).

The court also ordered Fujimori to make a compensatory payment of 62,400 soles (US\$20,800) each for 21 legal heirs, and to pay for nonpecuniary and nonmaterial damages of 46,800 nuevos soles (US \$15,600) to both Gustavo Gorriti and Samuel Dyer Ampudia. "We are not here, the relatives have not come here for money but for justice and dignity, and that is what the court has given us," said Cano.

Autoria mediata

Throughout the trial, Cesar Nakasaki, Fujimori's defense lawyer, insisted there was no evidence that his client was responsible in the four charges against him. Nakasaki demanded as proof documents signed by Fujimori ordering the assassinations. However, the *autoria mediata* of which Fujimori was convicted "is sustained in that he was head of a power apparatus, built expressly to carry out a counterinsurgency strategy outside the law," said APRODEH in the report *Fujimori: Hechos y razones para una condena*.

"All charges have been proven, and, at the same time, there is a very exact, very impressive description of the entire state repressive apparatus and its different relations, which, in reality, constitute a state-terrorism machinery. It has been said that there are state crimes and that means it goes beyond the four cases, it deals with an entire structure, a mechanism, a plan, and I believe that the way it has been presented has been absolutely impeccable. I believe that it is overwhelming," Mexican Javier Zuniga, a special aide with Amnesty International (AI) and international observer at Fujimori's trial, told NotiSur.

Another international observer, Coletta Youngers of the Washington Office on Latin America (WOLA), told NotiSur, "The verdict has been impeccable, complete, transparent, very clear; in this sense it is a very solid legal decision and corresponds to the seriousness of the crimes committed."

For Fujimori supporters, however, it was a political trial. Former congresswoman Martha Chavez told the press that it was an "ideological sentence" because it had been established that the students at La Cantuta were not terrorists. Former deputy Santiago Fujimori, brother of the ex-president, said in an interview with Radio Programas del Peru (RPP), "A sentence has no value that does not accept any extenuating circumstance, the extenuating circumstance, for example, of the violence that had been going on for 10 years, the extenuating circumstance of a country practically bankrupt, the extenuating circumstance that, if the state had not acted vigorously, Sendero Luminoso [which in 1980 initiated an armed conflict that lasted until 2000] was probably going to take power."

As evidenced in the decision, the CSJ also used the charge of *autoria mediata* to support the request for Fujimori's extradition in 2007. It said, "[Fujimori] supported the creation of a special agency within the armed forces to carry out operations against persons suspected of subversion or ideological enemies of the government," referring to Grupo Colima.

Regarding the charges against Fujimori, his daughter and a possible candidate in the 2011 presidential elections Deputy Keiko Fujimori Higuchi has repeatedly told the media that the verdict equates her father with Abimael Guzman Reynoso, top leader of Sendero Luminoso. The court that sentenced Guzman to life in prison in 2006 ruled that he was responsible for creating an organization to commit crimes of terrorism, that is, *autoria mediata* of those crimes (see NotiSur,

2006-10-20). Fujimori filed an appeal of the Sala Penal Especial's verdict, which was accepted by the court.

Fujimori's defense has until April 23 to argue that motion. The process can last up to a year, but, given the case's notoriety, the court's final verdict is expected within six months. The 34-year-old Keiko Fujimori has been on what is being called a national campaign insisting on her father's innocence and has said that if she is elected in 2011 she will grant him a presidential pardon. However, since he was convicted of crimes against humanity, Fujimori could not be pardoned except for humanitarian reasons and then only if he were suffering from a terminal illness.

While Fujimori prepares to face new trials, the ad hoc anti-corruption prosecutor and the Ministry of Justice are preparing to send a second package of extradition petitions to Chile to try the former Peruvian president for additional cases.

Although the relatives of the Barrios Altos and La Cantuta victims see Fujimori's 25-year sentence as a milestone against impunity in Peru, they do not consider the struggle over. "In our country, there are many cases, perhaps thousands of cases, of human rights violations committed during the 1980s that have not resulted in any legal proceedings, the assassins have not been identified, and exhumations have not even been done for the remains to be returned to the families. Thus, there is still a long way to go, but, yes, I believe that this sentence has to serve to facilitate this whole process," Gisela Ortiz told NotiSur.

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