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Peru: Victims Of Forced Sterilizations Fight For Justice

by LADB Staff
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The thousands of poor women who were subjected to forced sterilizations during the administration of former President Alberto Fujimori (1990-2000) refuse to let themselves be defeated by the indifference of judicial authorities who definitively closed the case last December. Between 1996 and 2000, as part of the Programa Nacional de Salud Reproductiva y Planificación Familiar under the Ministerio de Salud (MINSA), a program aimed at low-income sectors of the population, thousands of people, mostly women, were subjected without their consent to what was called voluntary surgical contraception. Data from the Defensoría del Pueblo indicates that 272,028 tubal ligations were performed between 1996 and 2001. The Defensoría del Pueblo and human rights organizations were able to identify 2,074 women who were subjected to this practice. Sixteen died from postoperative complications, while the majority of the others have resulting health and psychological problems. The more than 2,000 forced-sterilization victims filed a lawsuit with the Peruvian judicial system, but, at the end of 2009, the Fiscalía Superior de Derechos Humanos shelved the investigation arguing that it dealt with isolated instances of medical negligence and not a crime against humanity. "It cannot be seen as simple negligence when more than 2,000 women in different locations throughout the country were sterilized without the proper informed consent during the same period of time. Behind it was definitely a government policy backing this procedure," Rossy Salazar, lawyer for the legal-study area of Defensa de los Derechos de la Mujer (DEMUS), told the press. Forced sterilization is considered a crime against humanity under the Rome Statute of the International Criminal Court (ICC), ratified by Peru in 2001. Crimes against humanity have no statutory limitations. Responsible parties enjoy impunity "No one has had to answer legally for these abuses, which are also characterized by discrimination against indigenous and Quechua-speaking women, who are this society's most vulnerable groups and for whom a [legal] claim should be made rather than merely being given an apology," said Peruvian lawyer Guilia Tamayo to the Coordinadora Nacional de Radio (CNR). In May 2009, prosecutor Jaime Schwartz closed the case against four former Fujimori-administration health ministers and other former officials, saying that the statutory limitation had expired for the crimes of which they were accused. He also argued that forced sterilization is not a crime against humanity. Tamayo, an Amnesty International (AI) researcher, said that not only the doctors or health professionals who carried out the procedures, but Fujimori, in particular, must be punished since, she said, he led the design and implementation of this government program. Tamayo added that at issue is not only the lack of informed consent by the victims but also the deplorable sanitary conditions in which the procedures were performed. "The disdain for the body and the health [of the victims] is evident and is another matter that has not been addressed," she said. Tamayo began investigating the forced sterilizations in Peru in 1995 when she received tapes in Quechua from now Deputy Hilaria Supa Huaman on which she said that forced sterilizations were being carried out in the town of Anta in the department of Cusco and that she had been a victim of the practice. Following her investigations, Tamayo published two reports on this human rights violation in Peru: Nada Personal and Silencio y Complicidad. The reports said that her investigation had uncovered cases of women who died from surgical interventions, women whose health conditions were such that they should not have undergone surgery because they suffered from malnutrition, "but who..."
were sterilized despite those physical deficiencies." Case will be taken to international bodies
In September 2001, MINSA created the Comision Especial sobre Actividaddes de Anticoncepcion
Quirugica Voluntaria (AQV). Ten months later, the MINSA-appointed investigators published a
137-page final report, which said that, between 1995 and 2000, 331,600 women were sterilized and
25,590 men were given vasectomies. "Those people were rounded up using pressure, extortion, or
threats, or by offers of food, and without being given an adequate explanation of the procedure,
which prevented them from making an informed decision," said the report. The program set
numerical goals for health workers carrying out tubal ligations, which encouraged many of them to
pressure (and in many cases trick) women from distant rural hamlets into agreeing to the surgical
interventions. Some women died as a consequence of the forced sterilizations, including 33-year-
old Mamerita Mestanza, who left five children. She died in 1998, a few days after being subjected
to a tubal ligation. Her case is the only one that went (in 2000) to the Inter-American Commission
on Human Rights (IACHR), and in 2003 the Peruvian government admitted its responsibility. In a
"friendly settlement" with the IACHR, the Peruvian government agreed to pay compensation to
Mestanza's children and to investigate and bring to trial those responsible for this evil practice. In
November 2009, the IACHR again called on the Peruvian government to fulfill its commitment to
take legal action against those responsible. Under the 2003 agreement with the IACHR, the Peruvian
government promised to "conduct a judicial review of all criminal cases on violations of human
rights committed in the execution of the National Program of Reproductive Health and Family
Planning, to break out and duly punish the perpetrators, requiring them to pay the appropriate civil
damages, including the state if it is determined to have some responsibility for the acts that gave
rise to the criminal cases." By shelving the process, the prosecutor closes the door on the possibility
that the women victims of forced sterilization can obtain justice, fails to fulfill the agreement with
the IACHR, and sends a message that there is impunity for violating women's rights. Deputy
Supa Huaman called the prosecutors in the case Dr. Jorge Cortez Pineda of the Primera Fiscalia
Especializada Superior and prosecutor Jaime Schwartz Azpur of the Fiscalia Provincial specializing
in human rights violations indolent and ignorant of women's human rights. "I am committed
to continuing the struggle against impunity for the administration of Alberto Fujimori when it
implemented the forced-sterilization policies," said Supa Huaman in a press release. "Here there
was torture in subjecting women to an operation that they did not understand, to trick and threaten
them, to touch and violate their bodies and health. This is a violation of women's human rights and
is a crime against humanity." A group of specialists headed by the Instituto de Defensa Legal (IDL),
which is handling the case for the women who were sterilized against their will, is studying new
strategies to bring the case to international bodies. "Let no one think that this stops here; it is the
beginning of another process. More than 10 years after the violation of women's human rights, there
can be no impunity," said Supa.

-- End --