7-30-2010

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Peru: Victims Of Violence Demand Reparations
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Category/Department: Peru
Published: Friday, July 30, 2010

On July 15, hundreds of people from 14 regions in Peru whose lives were seriously affected by the political violence that battered the country between 1980 and 2000 arrived at the Congress building in Lima to demand that the government fulfill its commitment to provide them with individual economic reparations.

"We demand individual economic reparations. Old people affected by the violence are dying and have received nothing so far," Marino Balbo, a victims' representative in Huancavelica department in the central highlands, told reporters.

The Plan Integral de Reparaciones Individuales (PIR) approved in 2005 (see NotiSur, 2009-04-03) provides for creating a Registro Único de Víctimas (RUV), which to date has names of more than 76,000 persons. Because of its small budget, the RUV has been unable to complete the entries, having finished only 50% of the registry. The truth commission (Comisión de la Verdad y Reconciliación, CVR) report indicated that 70,000 people died between 1980 and 2000, most of them poor and from the Andean highlands.

"Reparations for victims of the violence is an obligation that the state must fulfill without delay. Many mothers and fathers who lost their children and loved ones in the most tragic period of violence have been waiting years for their just demands to be met. That is their right. Now they are elderly, and some have already died without receiving their due," said Defensora del Pueblo Beatriz Merino.

Merino met with leaders of the victims of violence and presented them with the timetable approved for 2010 regarding reparations, which prioritizes expediting the RUV and designing and implementing the individual-reparations programs in health, education, and in economic assistance.

To date, the government has not drawn up any plan for paying individual reparations. A pending issue for fulfilling this commitment is creating a technical commission to establish payment conditions as well as a budget item for the reparations payments.

For the time being, after the march to Lima by the people affected by the political violence, Prime Minister Javier Velásquez Quesquén announced that in 2011, the last year of President Alan García's term, his administration will turn over 20 million soles (US$7 million) in individual economic reparations to relatives of both civilian and military victims. In addition, the executive created a Comisión Técnica Multisectorial that will be in charge of the technical and methodological aspects of implementing the reparations plan.

Velásquez added that among mechanisms being evaluated for making the payment plan effective was incorporating those 70 years of age and above into the anti-poverty program Juntos and giving them "100 soles [US$35] a month for the rest of their lives." He also mentioned the possibility of providing university scholarships for victims' relatives and including them in the universal healthcare system.
During García's three and a half years in office, his administration has distributed 155 million soles (US$54 million) in collective reparations, benefiting 1,343 communities, said Velásquez.

"Reparations are an expectation that the victims have had for a long time. There are people who have been waiting for this for more than 20 years. Although the government has begun making reparations, the amount seems very small for 2011, but anyway something is better than nothing. Regarding the possible payment of 100 soles a month to those over 70 years of age, it doesn't seem fair to me; it does nothing for them. What we do not know or what has not yet been released is how much the government is going to give each family," Fr. Gastón Garatea, a former member of the CVR, told the daily El Comercio.

**Compensations and reparations**

"The state must fulfill various obligations," both to the victims and to the aggressors, according to various Inter-American Court of Human Rights (IACHR) decisions, Merino told reporters, but she emphasized that the priority must be paying reparations to victims of the violence.

Merino's statements were made within the context of a controversy begun when it became known that, in fulfillment of an IACHR order, the government paid US$30,000 to US citizen Lori Berenson (see NotiSur, 1996-01-19 and 2001-06-29), sentenced to 20 years in prison for collaborating with the Movimiento Revolucionario Tupac Amaru (MRTA), who was released from prison on May 25.

The IACHR ordered this payment in November 2004 when it ruled in favor of Berenson's suit against the Peruvian state for having been subjected to an irregular process in a military trial during the administration of ex-President Alberto Fujimori (1990-2000). The payment for legal costs and expenses was made in 2006, during the government of former President Alejandro Toledo (2001-2006).

"The Ministerio de Justicia covered that expense on March 15, 2006, to comply with the IACHR order," Minister of Justice Víctor García Toma said in a press conference on July 7, adding that, since that year, no new reparations payments have been designated in terrorism-related cases.

Under the IACHR ruling, the Peruvian government should also have paid compensation to other people convicted of terrorism. One case is that of María de la Cruz Flores, accused of belonging to Sendero Luminoso (SL) and currently a fugitive. In 2004, the IACHR ordered Peru to pay her US $319,000 in compensation. Some media accounts say that the payment may have been made, but the Ministerio de Justicia has not confirmed this.

"What the court stipulated was a payment to Berenson's parents for costs and expenses incurred in an international process that lasted eight years," jurist and IACHR president Diego García Sayán told the daily La República in a July 16 interview.

The botched legal processes during the Fujimori administration are what led the IACHR to order the Peruvian government to pay compensation to those sentenced for terrorism, analyst Eduardo Toche told the daily La Primero.

Velásquez at one point proposed that the Peruvian government partially withdraw from IACHR jurisdiction—on terrorism-related cases. But Justice Minister García Toma said there is no possibility that Peru will withdraw from the IACHR, despite criticisms of some of its decisions.
Velásquez then changed his proposal, suggesting instead a partial reservation regarding IACHR decisions, to avoid future rulings that would imply economic and moral compensation to those convicted of terrorism or their families. Velásquez forgets that such reservations can only be proposed before a treaty is signed, not 30 years later.

García Sayán and Merino agree that the state needs to make an adequate, well-substantiated defense to ensure that in suits such as those in which compensation is demanded it receive a favorable decision, since once a verdict is rendered, there is no appeal and no modification.

On July 21, President García proposed depositing in a bank the amount of the compensation payments owed and deducting from there what those accused of terrorism owe the country in civil reparations. This amount is nearly 3.8 billion soles (US$1.3 billion), said the justice minister, adding that a special prosecutor's office would be created for collecting the civil reparations that those convicted of terrorism and corruption owe the state.

On July 24, the Cabinet approved an urgent decree allowing that reparations payments ordered by the IACHR to persons accused of terrorism be offset by the civil reparations those persons owe the state, basically approving García's proposal.

García Toma also said that persons indicted on terrorism charges who have not paid their fines will make up the difference with jail time, and he added that the government will make a priority of paying reparations to the victims of violence.

The Peruvian government appears to have decided to find a way not to pay the IACHR-awarded compensations in cases won by persons convicted of terrorism. Many would like to see that same decision applied to reparations payments to victims of violence. Therefore, as Merino says, complementary legislation must be written establishing criteria based on ethical and moral justice for fulfilling Peru's obligation to pay reparations to the victims of violence.

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