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Peru Reopens Forced-Sterilizations Case

by Elsa Chanduví Jaña

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On Oct. 21, Peru's attorney general reopened the investigation of thousands of forced sterilizations carried out during the administration of President Alberto Fujimori (1990-2000). The case had been closed in 2009 when it was determined to be a common crime.

Congressional investigations estimated that this aberrant practice affected more than 300,000 poor women, mostly in the Andean highlands, who were sterilized against their will through deception, coercion, or by being offered gifts. During the same period, more than 18,000 men were subjected to vasectomies. At least 18 people died from those operations (NotiSur, March 26, 2010).

Minister of Women's Affairs Aída García Naranjo said that it was an act of justice to reopen the investigations because "we are not dealing with common crimes for which the statutory limitation has expired but rather with a crime against humanity."

Miguel Jugo, executive secretary of the Coordinadora Nacional de Derechos Humanos (CNDDHH), which includes dozens of human rights organizations, said that the forced sterilizations were carried out as part of a state policy to control the birth rate and reduce poverty.

The family-planning program promoted by the Fujimori administration, which included voluntary surgical contraception (Anticoncepción Quirúgica Voluntario, AQV), was part of the national population law (Ley Nacional de Población) aimed at reducing the birth rate to 2.5 children per family by 2000. Sterilizations were not part of any family-planning policy in the country until the executive and the Fujimori-controlled parliament imposed them in 1995 through Ley 26530. This law modified the Ley Nacional de Población, which excluded sterilization as a family-planning method.

"It deals with a case that is imprescriptible" and about which there must be a diligent investigation. It is impossible that in the past [the government] wanted to control poverty by seeing to it that there were no more poor," said Jugo, in statements published by the official news agency Andina.

The investigation is now under the jurisdiction of the Fiscalía Supraprovincial Penal, and Peru's Attorney General José Antonio Peláez Bardales has expanded that agency's jurisdiction to include the investigation of this issue throughout the country.

A Defensoría del Pueblo report said that, between 1996 and 1999, 7.82 deaths were reported per 100,000 sterilizations performed nationally, with a fatality rate of 11.4 in rural areas.

Ministerio de Salud data shows that, between 1995 and 1999, the number of sterilization operations increased enormously, especially in the Andean highlands. In Cusco, the number grew from 1,070 to 4,535; in Ayacucho, it soared from 213 to 2,084.

"Not only were those who sterilized women given awards, they were also obliged each month to report a minimum number of people who were sterilized," said Gloria Cano, a lawyer with the Asociación Pro Derechos Humanos (APRODEH).
"There was a mechanism of coercion against the populations and against health workers, when that should not have occurred," Fernando Carbone Campoverde, former health minister (2002-2003), said in an interview with La República. While Carbone was at the ministry, there was an exhaustive investigation into these events, and the conclusions were turned over to Congress and the attorney general's office, but nothing was done.

Carbone said the investigations should focus on those most responsible and not on health workers.

The report of the Ministerio de Salud's AQV Commission, said Carbone, "places responsibility at the highest levels of the executive, which organized the forced sterilizations and gave the instructions. It then goes to the levels of the regional health offices (Direcciones Regionales de Salud) and the leaders in charge of implementing the campaigns."

**Hope for justice**

The case was reopened after the Inter-American Commission on Human Rights (IACHR) found that the national judiciary had not done enough to compensate the victims. On Oct. 26, the Peruvian state informed the IACHR that the attorney general had reopened the case of Mamérita Mestanza Chávez, who died in 1998 after being forcibly sterilized, and other similar cases occurring during the Fujimori dictatorship. The number is about 2,000, including the 18 victims who died during the procedure.

Mestanza Chávez, a 33-year-old campesina and mother of seven, lived in the district of La Encañada, a rural area in the department of Cajamarca in the northern highlands. A Comité de América Latina y el Caribe para la Defensa de los Derechos de la Mujer (CLADEM) report said that state health officials pressured the woman's family and even threatened them with fines and imprisonment to get her to agree to the sterilization (the health center said a law stipulated that any woman who had more than five children could be jailed and fined).

On March 27, 1998, Mestanza underwent the operation without being informed of the consequences and risks. Eight days later, on April 4, she died from a postoperative infection resulting from a lack of medical care, despite having asked for such attention on more than five occasions. Mamérita Mestanza's husband filed a complaint with the Peruvian judiciary.

The courts initially dismissed the complaint, which then went to the IACHR. In 2003, the state finally reached an agreement with the IACHR to compensate the relatives and prosecute those responsible, demonstrating the state's recognition before the IACHR that the forced sterilizations violated human rights.

Jeannette Laja, director of the Estudio para la Defensa de los Derechos de la Mujer (DEMUS), told La República that the attorney general's decision is to comply with that agreement. "In 2003, an agreement was reached with the IACHR, but what followed was a deficient investigative process; in 2009, the attorney general's office closed the investigation saying that sterilizations were common crimes and the statute of limitations had expired. No analysis was made indicating that it was a state policy. It is an issue that has been pending for years," said Laja.

The DEMUS director says that it is important to investigate to determine the level of responsibility of ex-President Fujimori and his ministers of health, Eduardo Yong Motta, Costa Bauer, and Alejandro Aguinaga. The latter is now a deputy with the Fujimorista Fuerza 2011 bloc.
"Reports in the [attorney general's] file say that the ministers reported to Fujimori on the progress and fulfillment of goals regarding surgical contraception," Laja said.

Jossy Cárdenas, coordinator of the Programa de Derechos Sexuales y Ciudadanía en Salud of the feminist nongovernmental organization (NGO) Flora Tristán, told La Primera, "Opening the investigations will send a signal to those responsible, including those who presently enjoy parliamentary immunity, and we hope that they carry out the relevant trials. After this whole process, which has been such a strong blow for women's rights, they can't continue to have impunity."

Former dictator Fujimori, who is serving a 25-year sentence for human rights violations, cannot be tried for crimes related to this case because the file was not included in the petition when he was extradited from Chile. Human rights organizations are analyzing the possibility of broadening the extradition petition.

"We are gathering new testimony from affected women. Many say they were taken by force [to be sterilized] and even tied to their beds. That amounts to kidnapping and also torture as confirmed by their experience," María Esther Mogollón, leader of the Movimiento Amplio de Mujeres (MAM Línea Fundacional), told La República. Since the 1990s, MAM has spearheaded this complaint of human rights violations.

The MAM Línea Fundacional, together with Deputy Hilaria Supa, has tirelessly supported the sterilized women, especially those from the district of Anta, in the department of Cusco, encouraging them to organize and fight for justice.

Mogollón said that they have found evidence that soldiers and police participated in carrying out the program.

Journalist Ángel Páez confirmed what Mogollón said in a dossier published in June by La República. He said that, between 1993 and 1999, the armed forces and police carried out 4,082 surgical operations.

The challenge of a new investigation will be to prove that it truly was a state policy designed at the highest levels of government, with the direct participation of Fujimori and the Ministerio de Salud, through its ministers of that period, as well as of all levels in the vertical chain of command.

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