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Prosecutors Stumble In Ecuador’s First Truth Commission Trials

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Category/Department: Ecuador
Published: 2014-04-18

Relatives of human rights victims have been disappointed by initial efforts to pursue the perpetrators of crimes documented in clear detail by the government’s Comisión de la Verdad (truth commission), which was formed seven years ago and, in 2010, released a comprehensive report regarding state-sponsored rights abuses committed between 1984 and 2008 (Oct. 15, 2010, and Dec. 3, 2010).

Proceedings in one of the cases have been stalled because two of the defendants fled the country. Another case fell apart because prosecutors failed to collect sufficient evidence—a recurring problem with the various truth-commission crimes, some of which took place decades ago. State prosecutors aren’t even looking into a number of human rights cases, according to groups like Fuerza del Mar, which represents family members of people allegedly killed by US military personnel operating between 1999 and 2009 in the Pacific port city of Manta.

"No truth, no justice"

President Rafael Correa established the truth commission on May 3, 2007. Headed by Sister Elsie Monge, a leading human rights defender, it was given a mandate to investigate and thus challenge the impunity surrounding serious human rights violations committed by state agents primarily—though not exclusively—during the government of President León Febres Cordero (1984-1988), who continued to lead Ecuador’s far right until his death in December 2008 (NotiSur, June 15, 2007).

The crimes in question include numerous killings and forced disappearances of people involved in an upstart guerilla group called ¡Alfaro Vive, Carajo! (AVC). Activists in various social organizations also fell victim to the repression (NotiSur, Jan. 31, 1989, and Jan. 19, 1993).

Correa’s decision to create the Comisión was controversial. Critics accused him of bowing to pressure from former AVC members who had gone on to become government officials. The results of the committee’s inquiries, nevertheless, eventually spoke for themselves. In June 2010, Monge and her colleagues released a lengthy report titled "Sin verdad no hay justicia" (Without truth there is no justice). The more than 2,500-page report contained testimony from rights victims and their families and documented the use of torture by certain police and military personnel assigned to investigate and dismantle social organizations and either kill or disappear the leaders of those groups.

The Comisión recommended that the national prosecutor’s office, the Fiscalía General del Estado, initiate proceedings regarding the 118 most serious cases documented in the report. For many of those cases the Comisión was able to collect concrete evidence and thus assign blame to specific police and military officials, including some top generals.

Overall, the report documented 269 incidents of false imprisonment, 365 cases of torture, 86 incidents of sexual assault, 17 forced disappearances, 26 affronts on people’s right to life, and 68
extrajudicial killings, according to a summary presented by Estela Garzón of the rights group Comisión Ecuménica de Derechos Humanos (CEDHU). Approximately 70% of the crimes occurred during the Febres Cordero presidency. The rest were committed between 1989 and 2008.

Skipping town

With the truth commission report in hand, the Fiscalía General del Estado formed a special unit to investigate the cases in question and bring the authors of those crimes to justice. So far, however, the unit has been slow to advance. Prosecutors have had particular difficulty collecting the evidence needed to substantiate the report’s various testimonies and thus launch formal proceedings against the accused.

The first case the Fiscalía General del Estado brought to trial pertained to events that began in 1985, when a group of AVC members—Luis Vaca, Susana Cajas, and Javier Jarrín—were arbitrarily detained and locked up by soldiers in the city of Esmeraldas. They were then transferred to a base near Quito, the Ecuadoran capital, where they were tortured and sexually assaulted.

Susana Cajas and Javier Jarrín were later handed over to the police and jailed for a year on charges that they had been carrying false documents. Vaca went missing—for three years. Authorities erased his name from the country’s civil registry, making it impossible for his mother, who filed numerous formal complaints, to learn anything about her missing son. Legally, he didn’t exist. Vaca reappeared only after Febres Cordero left office. Authorities dumped the desaparecido in front of his house in Ibarra. Afraid he would be recaptured, Vaca refused to leave his home for the next six months.

On Oct. 1, 2013, a judge in the Corte Nacional de Justicia in Quito ordered seven high-ranking Army officials (three ex-generals and four ex-colonels) implicated in the case to be placed under house arrest. The judge also ordered that an ex-defense minister and former Policía Nacional commander—both of whom had already fled the country—be jailed pending trial.

The police commander, Gen. Édgar Vaca, is the primary suspect in this and numerous other human rights cases. As head of the Servicio de Investigación Criminal (SIC 10), Gen. Vaca was responsible for an alleged anti-terrorism operation carried out during the Febres Cordero presidency. He is currently in the US, where he has asked for political asylum. The Fiscalía announced in February that it would seek Vaca’s extradition. For now, though, he remains off limits. The trial, as a result, is currently stalled. Without his physical presence in court, the case against him cannot move forward.

Not enough evidence

Another case that the Fiscalía’s special unit was able to bring to trial involved Damían Peña Bonilla, a 16-year-old high school student, who died on Jan. 12, 2002. Peña was shot in the forehead while participating in a student protest against bus-fare hikes. Legal proceedings were launched against two police officers. The Fiscalía’s primary target was police officer Pablo Inga.

The trial came to an end this past March 14, when the Tribunal Tercero de Garantías Penales in Cuenca absolved Inga of all charges against him. The Fiscalía and Peña’s relatives rejected the Tribunal’s decision. They plan to file an appeal but, given a lack of forensic evidence, doubt whether justice will ever be served.

Prosecutor Fidel Jaramillo, who heads the Fiscalía’s special unit, disputes claims that his team is mishandling the various human rights cases. The unit, he claims, is doing the best it can given the
difficulties involved in attempting to prosecute people for crimes committed many years earlier. Jaramillo insists, furthermore, that the Fiscalía General del Estado remains committed to securing convictions regarding the most serious cases documented by the Comisión de la Verdad.

The mystery of Manta

In recent years a number of other human rights cases have been documented and added to the truth commission’s already long list of crimes. The additional cases are not, however, being considered by the Fiscalía, which has not assigned prosecutors to investigate them.

Several of those additional cases are related to the presence, between 1999 and 2009, of US military personnel in the port of Manta. Reports claim that US ships sank at least 38 Ecuadoran boats that were either engaged in fishing operations or transporting migrants. Suggestions have been made that some of those boats were linked to drug trafficking. There has been no evidence, however, to substantiate those claims.

The association Fuerza del Mar, representing fishers, the spouses of missing fishers, and the owners of the sunken vessels, has called on the Fiscalía to open an investigation to determine, once and for all, whether the US Navy is to blame for the incidents in question. So far the group’s demands have gone unmet, despite a series of offers by government officials, who are keen to silence Fuerza del Mar and thus ease the pressure created by its accusations.