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New Law Places Focus on Victims of Peruvian Political Violence

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Relatives of the men and women who “disappeared” in Peru during the country’s armed conflict (1980 to 2000) saw their rights recognized with the passage on May 29 of a law that establishes a mechanism to search for the victims of the conflict in a way that prioritizes a humanitarian approach. The measure is a step forward in the state’s arduous task of repaying its debt to Peruvians whose human rights were violated during the political violence. However, some groups—such as the victims of forced sterilization—are still awaiting justice (NotiSur, Sept. 13, 2013, and Aug. 28, 2015).

On June 22, President Ollanta Humala signed Law Number 30470, known as the Search for Disappeared Persons from the Period of Violence Law, which was originally presented to the legislature by the country’s ombudsman. Published in the official journal, El Peruano, the day after the president’s signature, the law directs the Ministry of Justice and Human Rights to design, carry out, and supervise a national plan for the search for the disappeared, and calls for a National Registry of Disappeared Persons and Burial Sites to be operational by September.

Nearly 16,000 Peruvians disappeared during the conflict. Between 2002 and 2015, a specialized forensic team from the Ministerio Público (Public Prosecutor’s Office) counted 3,202 recovered bodies, of which 1,833 had been identified as of last year and 1,644 had been turned over to their families.

‘Emblematic request’

In an article for El Comercio published on June 26, Gisella Vignolo Huamaní, in charge of the Office for Human Rights and Persons with Disabilities at the Defensoría del Pueblo (Peru’s ombudsman), recalled a request received in 1997 from ANFASEP (Asociación Nacional de Familiares de Secuestrados, Detenidos y Desaparecidos del Perú), an organization of campesino [rural residents] and Quechua speakers that fights on behalf of Peru’s disappeared. She called the request “emblematic” for its impact on the lives of thousands of families. “Inspired by Angélica Mendoza, known as ‘Mamá Angélica,’ ANFASEP demanded to know the whereabouts of their loved ones in Ayacucho, one of the regions most affected by the terrorism,” Vignolo wrote. “Today, at 87 years of age and in poor health, Mendoza can’t forget the son she never saw again.”

Vignolo said that the relatives of the victims, and their organizations, should be guaranteed participation in the implementation of the law so that they understand the guiding principles of the policy, the way the search is handled, and the complexity of forensic investigations.

“It is a very important day for democracy, for the observance of human rights in the country,” said Ombudsman Eduardo Vega in the radio program “No Hay Derecho.” “As others have said, it was a law long awaited by victims and relatives of the disappeared, but above all by a democratic society that can’t forget the gaping wound from those who disappeared during the decades of violence.”
‘A huge debt’

Vega stressed that launching the process of finding these persons was the ethical and humane thing to do. “If we, as a society, don’t do it, [society] would have a huge debt. It would be a society that hadn’t learned from its past and one that treats this situation of the disappeared unjustly,” he said, adding that the law is a praiseworthy accomplishment for Humala.

Rocío Silva Santisteban, former executive secretary of the national human rights group Coordinadora Nacional de Derechos Humanos, told the daily Uno that enactment of the law “is important because, up until now, looking for the disappeared had turned into a sort of search for bodies. The idea is that the law not only deals with the issue of forensics, but that it covers everything implied by the restoration of the dignity of persons not buried by their families. It promotes a dignified burial, work beyond death with the family.”

Silva emphasized that more than returning the human remains of the disappeared to their families, “we want to know why they disappeared, why they were tortured and killed, who did it, and whether it was state policy or whether military leaders allowed it to happen.”

The international community also welcomed the law. The regional office for South America of the United Nations High Commissioner for Human Rights (OHCHR) said the law signified remarkable progress in human rights in Peru. The UN’s Working Group on Enforced or Involuntary Disappearances expressed the same sentiment.

For her part, Marina Navarro, executive director of Amnesty International Peru said, “This law recognizes the relatives’ struggle for truth, justice and reparation. We hope President-Elect Pedro Pablo Kuczynski provides all the necessary and adequate resources for its implementation.”

Raida Cóndor echoed Navarro’s statement. Cóndor is the mother of Armando Amaro, one of the nine students who along with one of their professors at the Universidad Nacional de Educación Enrique Guzmán y Valle, La Cantuta, were kidnapped, killed and disappeared on July 18, 1992, by a detachment of Army intelligence agents called Grupo Colina (NotiSur, June 11, 1991).

“My ordeal began the very day when we learned of the disappearance,” the grieving Cóndor told the daily Uno. “They have been days, years, of great pain, because I don’t even know where my son was buried. At least tell us where we can find the remains, so we can give them a Christian burial and calm my pain.”

“The enactment of this law confirms that respect and protection of human rights is a policy of the current government, one that the current administration has made a priority in accordance with state law and the legal documents that Peru has signed regarding this issue,” El Peruano editorialized June 24.

Groundbreaking trial

On June 8, oral proceedings began against 11 military men accused of sexually assaulting 14 women between 1984 and 1995 on the military bases of Manta and Vilca, in the Huancavelica region. They face up to 18 years in prison. The men are charged with crimes against humanity (on the basis that there was a systematic use of sexual violence on the part of the Army), which makes this the first trial in Latin America where sexual violence is presented as a crime against humanity.
Enrique Bernales, an attorney and former member of the Truth and Reconciliation Commission that investigated the wave of violence that swept the country during the armed conflict, said a favorable judgment for the victims would create jurisprudence in Latin America.

Maria Ysabel Cedano, director of Estudio para la Defensa de los Derechos de la Mujer (DEMUS), a feminist organization that promotes human rights, and specifically the sexual and reproductive rights of women, agreed. “It is the first time that military men are going to be tried for crimes against humanity for sexual offenses,” she told reporters.

Melania Canales, vice president of the Organización Nacional de Mujeres Indígenas Andinas y Amazónicas del Perú (Organization for Indigenous, Andean and Amazonian Women of Peru, ONAMIAP) hailed the process. “There have been no sentences in such cases up until now,” she said. “This trial sets a precedent for this type of crime against humanity.” She noted that most of the victims of sexual abuse during the armed conflict were indigenous women.

Rossy Salazar, an attorney for DEMUS, said that during the armed conflict, more than 5,000 cases of sexual violence were committed and most of the allegations filed with the judicial system are still in preliminary investigation.

Among those who are still waiting for justice are the 2074 women who have publicly declared that they were forced to undergo sterilizations, or were not properly informed about the procedure, during the dictatorship of Alberto Fujimori (1990-2000) (NotiSur, Oct. 6, 2000, Sept. 7, 2001, and May 1, 2009). Prosecuting attorney Marcelita Gutiérrez had set a target of July 4 to release the results of the investigation she conducted on the forced sterilizations, but she then said she would take 10 more days to make public the results of her work and announce whether or not she would accuse Fujimori, three former health ministers, and many health workers of crimes against humanity. By July 25, she had still not released her findings.

“In 2003, the Peruvian government signed a friendly accord before the Inter-American Commission on Human Rights pledging to investigate and punish those involved both directly and indirectly. The prosecutor has met her obligation by completing the investigation, and now we hope that she will adequately evaluate all elements and material evidence so that this crime against humanity doesn’t go unpunished,” Cedano told reporters. Her legal department at DEMUS is supporting three of the victims, Mamérita Mestanza, Celia Ramos, and Victoria Vigo.

During Fujimori’s government, 22,004 men and 272,028 women were sterilized, nearly all of them poor, Quechua speakers, and/or people from rural areas, according to a bulletin from the “Somos 2074 y Muchas Más” campaign that DEMUS is conducting. The name of the campaign, which in English means “We Are 2,074 and Many More” is taken from the number of women who have publicly presented their cases of forced sterilization publicly.

Members of a Cusco association of victims of the sterilization campaign, the Asociación de Mujeres Afectadas por las Esterilizaciones Forzadas (AMAEF), fear that the prosecutor will again file the case away or exonerate Fujimori and his health ministers.

“We met with [the attorney general] last November and this January,” Ruth Zúñiga, president of the AMAEF, told the daily La República. “She told us she is going to solve the problem as soon as possible. We think Fujimori’s supporters could be manipulating documents, but we are not going to allow them to file them away again. We want everything to be legal and fair.” Zúñiga based her
statements on the fact that backers of Fujimori have a majority in Congress and are expected to exercise their political power to protect Fujimori from facing charges for this crime.

Political pressure from Fujimori backers who want a pardon for the imprisoned former dictator is not new. Outgoing Fuerza Popular Deputy Julio Gagó recently proposed that Kuczynski announce a pardon for Fujimori in his upcoming July 28 inaugural speech as “a sign of reconciliation and good governance.” But Congressman Luis Galarreta, a Fuerza Popular spokesman, said that the pardon is not on his party’s parliamentary agenda and that Gagó’s is a personal proposal.

Kuczynski ruled out announcing such a pardon, and reminded reporters of his campaign statement: “If Congress passes a bill that allows people in former President Fujimori’s position to fulfill their sentences under home arrest, I would sign it” (NotiSur, May 27, 2016). Nevertheless, on July 22, Fujimori, through his attorney, petitioned for a humanitarian pardon with the Ministry of Justice and Human Rights, as confirmed by the prime minister, Pedro Cateriano. Kuczynski reiterated to the media that he would not pardon Fujimori and added, “Crimes against humanity are punished as Fujimori was punished.”

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