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## Former Peruvian President Jailed in Corruption Scandal

by Elsa Chanduó Jaña

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An investigation into the bribery scandal known as Operação Lava Jato (Operation Car Wash) has put one of Peru's former presidents, Ollanta Humala (2011-2016), and his wife, Nadine Heredia, in prison under a preventative detention order. There has been no progress, however, in the Lava Jato cases against former President Alan García (1985-1990, 2006-2011) and two-time presidential candidate Keiko Fujimori ([NotiSur, Jan. 20, 2017](#), and [May 26, 2017](#)).

As requested by Peruvian prosecutors, Humala and his wife, accused of money laundering and criminal association, began serving 18-month pre-trial detention in mid-July.

Richard Concepción Carhuancho, the judge in charge of the investigation, approved the detention request made by Prosecutor Germán Juárez. Humala and Heredia are suspected of orchestrating an operation to launder illicit contributions to their political organization, the Partido Nacionalista, from Venezuela (in the 2006 presidential campaign) and Brazil (in 2011). The judge based his decision, in part, on the chance the accused couple might flee.

Calling the preventive detention order an abusive measure, Humala told the press that he and his wife were victims of political persecution.

As soon as the decision was announced, 27 former officials from Humala's Cabinet--- including Pedro Cateriano, who served as prime minister---disseminated a statement on social media in which they expressed their dismay and rejection of the judicial ruling.

"After 30 months of a tax investigation, without a formal accusation having been made, preventative detention was decided despite Mr. Humala's impeccable procedural behavior," the ministers said.

Asked by reporters about the ruling, President Pedro Pablo Kuczynski called the ruling "historic," and added, "In the end, what is happening is very sad, and I hope that the proceedings against Mr. Humala and his wife are carried out quickly and transparently."

Humala's case is part of the investigation into the Operation Car Wash scandal, in which Brazilian construction firms such as Odebrecht and OAS bribed public officials in order to win contracts for huge projects. In Peru, the probe was based on information that businessman Marcelo Odebrecht provided Brazilian legal authorities and on his final declaration to Peruvian tax authorities, in which he said he had made a US\$3 million campaign contribution to the former president in 2011. Humala won that election over Fujimori, his rival from the Fuerza Popular party.

The Brazilian businessman said he ordered Jorge Barata, former Odebrecht director in Peru, to deliver the money to Humala's 2011 campaign in response to a request from Brazil's Partido dos Trabalhadores. In addition, he said he turned over US\$1 million in cash to Heredia. In Heredia's notebooks—which a TV program revealed in 2015 and which are the focus of the current investigation—there are figures, accounts, and notations between 2008 and 2011 related to the Brazilian construction firms implicated in the Lava Jato case.

The accusation against Humala maintains that the money the Partido Nacionalista received was disguised as fake donations. The Oficina Nacional de Procesos Electorales (National Office of Electoral Processes, NOEP) has told the public prosecutor that the Partido Nacionalista handled large sums of money that were never deposited in a bank and therefore there is no way to prove their legality. More than 60 persons who appear as donors in reports the party gave the NOEP have denied they ever made those contributions.

Almost immediately after Justice Concepción ordered Humala's and Heredia's detention, their lawyers filed appeals requesting that the ruling be revoked. Nevertheless, on Aug. 4, the Second Court of Appeals declared their request unfounded.

The former first lady is being held in the Virgen de Fátima Annex at the Chorrillos Women's Prison, a maximum-security facility. Humala is at the Peruvian National Police's Division of Special Operations, where former dictator Alberto Fujimori (1990-2000) has been held for 10 years. Alberto Fujimori is serving a 25-year sentence for crimes of corruption, premeditated homicide, and aggravated assault and kidnapping ([NotiSur, Nov. 18, 2005](#), [May 1, 2009](#), [May 27, 2016](#)).

Humala and Heredia could receive sentences of 10 to 13 years.

### *Double standard of justice*

In December 2016, it was learned that the Brazilian construction firm Odebrecht testified before the US Department of Justice that it had paid bribes of US\$29 million in Peru for different projects between 2005 and 2014. In those years, the Peruvian presidency was held by Alejandro Toledo (2001-2006), García, and Humala.

Two arrest warrants have been issued for Toledo, both for 18 months of preventative detention. The first was issued in February for allegedly having received US\$20 million from Odebrecht in exchange for adjudication of the Interoceanic Highway during his presidency. The second, issued in April, has to do with acquisitions of real estate on behalf of his mother-in-law, Eva Fernenbug, using illicit funds from the Costa Rican firm Ecoteva Consulting Group ([NotiSur, Feb. 24, 2017](#)). In this last case, there is also an order for pre-trial detention for Toledo's wife, Eliane Karp.

Toledo is living as a fugitive in the US. The request for his arrest and extradition has been in process for more than five months, according to Duberlí Rodríguez, president of the Peruvian Judiciary.

"The preventive detention of Humala and Heredia does not conform strictly to the rules," Cruz Silva, lawyer for the Instituto de Defensa Legal (Legal Defense Institute, IDL), told the daily *DiarioUNO*. Pretrial detention "is not a consequence of the analysis of the crime, but instead a question of whether their freedom would endanger the process: whether the defendants might flee or could obstruct evidence," Silva said. "Many perceived a while ago that investigations advance for some political leaders, but not for others, such as Alan García or Keiko Fujimori, who are objects of similar allegations as Humala and Heredia: receiving money from Marcelo Odebrecht, according to information reported by IDL-Reporteros."

Historian and analyst Nelson Manrique wrote in his column in *La República*, "More than subscribing to any conspiracy theory, what is wrong is that the legal system applies a double standard, putting the Humalas in prison and leaving Alan García and Keiko Fujimori, whose cases are similar, at large."

Marcelo Odebrecht has declared in Brazilian courts that Barata knows about the money given to Apra, Garcia's party, and to Keiko Fujimori. Nevertheless, the Peruvian prosecutors don't show any interest in investigating.

The website Ojo Público reported in May that José Dirceu, former prime minister during the administration of Luiz Inacio Lula da Silva (2003-2011) in Brazil, as well as two former executives of Brazilian companies, Engevix and Galvão Engenharia, both associated with Lava Jato, have identified García as a key player in the dealings between construction firms and the state.

As for Keiko Fujimori, Gustavo Gorriti, director of IDL-Reporteros, published in Caretas magazine transcriptions of statements made by Marcelo Odebrecht to Brazilian courts in which he said, "We habitually supported the leading candidates." In the transcripts, Odebrecht says that, faced with Barata's discomfort in supporting Humala when he believed Fujimori was going to win, he suggested that they support her as well, but that they continue to support Humala, because the Brazilian government had made that request.

The Public Prosecutor's Office has asked Brazilian prosecutors for evidence that would implicate Keiko Fujimori in the Lava Jato scandal. The president of the congressional commission investigating Lava Jato in Peru, Rosa Bartra, a Fujimorista, has indicated that the commission will cite Keiko Fujimori only after they've received the documentation from Brazilian Prosecutor Orlando Martello.

In Gorriti's opinion, the Peruvian prosecuting team that traveled to Brazil in May engaged in a cover-up by not interviewing Marcelo Odebrecht, who has indicated that he had also financed the candidacies of Keiko Fujimori and of the Apra party, led by García.

For many analysts, the Humala and Heredia case reflects the need to pass reforms to better control the finances of political parties.

For example, Fernando Tuesta, a political scientist at the Pontificia Universidad Católica del Perú, says that the regulations should be modified so that when someone receives money from abroad and does not declare it, sanctions are applied to party leaders and candidates, and not just to the party, as currently happens.

"Never has it been more urgent to pass a political reform that would make party finances and the wealth and interests of the highest authorities transparent and set drastic sanctions for non-compliance with the rules," said political analyst Martín Tanaka in an opinion piece in the daily La República.

A positive turn of events in the context of the Lava Jato investigation was the approval by Congress, on Aug. 17, of a reform to Article 41 of Peru's political Constitution, establishing crimes of corruption as imprescriptible. The hope is that cases of corruption will no longer go unpunished in Peru, where this scourge is entrenched in the halls of power.

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