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A Pardon Could Be on the Horizon for Peru's Former Dictator, Alberto Fujimori

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Recent actions by the administration of Peruvian President Pedro Pablo Kuczynski may pave the path to a pardon for former dictator Alberto Fujimori, who has served less than half of his 25-year prison sentence for crimes against humanity ([NotiSur, Jan 11, 2008](#), [May 1, 2009](#), [Jan. 20, 2017](#)).

Fujimori was convicted of the murder of nine students and one professor from the Universidad Nacional Enrique Guzmán y Valle in La Cantuta in 1992; for the 1991 massacre in the Lima neighborhood of Barrios Altos, where an 8-year-old boy was also killed on April 5, 1992, the day in which Fujimori staged an auto-golpe, or self-coup ([NotiSur, April 8, 1992](#)); and for the kidnapping of journalist Gustavo Gorriti ([NotiSur, Sept. 5, 1997](#)) and businessman Samuel Dyer.

During a recent interview on the TV program Cuarto Poder (Fourth Estate), Kuczynski was asked whether a Fujimori pardon was in the agenda. "I believe that there are always things on Peru's political agenda, every day," Kuczynski replied. "For the moment, this is a medical issue and nothing more."

In July 2016, when Fujimori made his last request for a pardon to the administration of former President Ollanta Humala (2011-2016), Kuczynski, then the president-elect, assured reporters he would not grant a pardon.

"Fujimori has the right to request clemency," he said. "I won't sign it. Humala is the president until July 28, and he has the right to grant a pardon if he so chooses. The request does not surprise me."

In May 2016, when he was still a candidate for office, Kuczynski, also known as PPK, had given his backing to an eight-point agreement with victims of human rights violations that included support for punishing those responsible for such crimes. He had, however, said that same month that he could favor allowing Fujimori to complete his sentence at home ([NotiSur May 27, 2016](#)).

As president, Kuczynski has referred to a Fujimori pardon on several occasions. "The time to do it is now," he told *The Economist* in June. And in a July interview with RPP Noticias, he said, "This is not a pardon; it is a medical discharge. It is determined exclusively by the opinions of top doctors who will check on the former president's state of health." Earlier this month, he told the press, "The reprieve is humanitarian, it is not a pardon, and we are reviewing the man's health. Nothing more."

Opponents to pardon organize

On Sept. 29, various non-governmental organizations such as Colectivo Dignidad (Dignity Collective) and No a Keiko (a group in opposition to the 2016 presidential candidacy of Fujimori's daughter, Keiko Fujimori, the leader of the Fuerza Popular [FP] party) called for a mobilization to reject an eventual Fujimori pardon.

"We unite to demonstrate our rejection of a decision that puts the country's judicial system at risk and will not only damage the relatives of Fujimori's victims, but also will give Peruvians a feeling of

impunity,” the groups wrote on their official Facebook page. “PPK, the critical vote that was given to you [was because you said you rejected] a possible pardon; today, you not only betray those voters, you betray justice and the Peruvian people.”

Does new Cabinet play a role?

When Marisol Pérez Tello, the former minister of justice and human rights, left the Cabinet, many thought her departure would facilitate Fujimori’s release, since she had repeatedly and publicly expressed her opposition to a pardon. Her replacement, Enrique Mendoza, quickly signed a resolution on Oct. 6 that changed the membership of the Justice Ministry’s commission that would review a pardon request, the Comisión de Gracias Presidenciales. Mendoza is part of Kuczynski’s second Cabinet, which received a vote of confidence from the Congress on Oct. 12, with the backing of all parties except for the leftist Fuerza Popular and Nuevo Perú ([NotiSur, Sept. 29, 2017](#)).

There are three ways to annul or reduce penalties in Peru: humanitarian pardon (when the condemned person has a terminal or degenerative disease), a common pardon (when the convicted person demonstrated good behavior), and a prisoner’s claim of a right to a pardon or commutation of sentence. It is incumbent for the convicted person to request the pardon. After evaluating the request, the Comisión de Gracias presents it to the president, who then may grant or deny it.

In a conversation with RPP Noticias, Víctor Arroyo, who was a member of the commission until the recent change in its membership, was asked whether his departure and the probable pardon were related.

“We, the members of the commission, participated in a previous process, issuing a report to the effect that Mr. Fujimori did not meet the requirements [for the pardon],” he said. “Perhaps they thought that since this commission had issued an opinion, it was probable it would hold. Perhaps [there is a connection], but I don’t have objective elements to judge one way or the other.”

The surprise appointment of 92-year-old Orlando Franchini Orsi to head the commission also raised concerns. Franchini, a former businessman with no knowledge of penitentiary issues, resigned six days after his appointment to avoid criticism related to his age.

According to statements La República gathered from sources at the Ministry of Justice, in order for Fujimori to obtain his freedom, the president would have to grant two benefits for the same humanitarian reasons: a pardon and the right of grace. The pardon would allow Fujimori, who has been held for 10 years and seven months, to leave prison before completing his 25-year sentence. The right of grace would mean the end of several pending trials that involve corruption and human rights violations, as well as of current investigations, such as the inquiry into the case of more than 300,000 women who were subjected to forced sterilizations between 1990 and 2000 ([NotiSur, Nov. 18, 2011](#), and [Dec. 21, 2012](#)).

Humanitarian pardon vs. support for victims

“I cannot oppose a humanitarian pardon,” Defense Minister Jorge Nieto said during the television program Agenda Política. “I believe no one can be against a humanitarian pardon. Besides, since you bring this up, the country needs an authentic reconciliation policy. We have much repressed sadness in Peru.”

However, for victims of human rights violations under the Fujimori regime and their relatives, as well as for human rights organizations and for all citizens who voted for Kuczynski to keep Keiko

Fujimori from becoming president, what's on the table isn't a humanitarian pardon but a political pardon.

Ever since July, the families of the victims of the Fujimori regime have been asking for a meeting with the president in order to present their position against a pardon and to remind Kuczynski of the promises he made as a candidate. But up until now, their request has not been granted.

"If President Kuczynski pardons Fujimori, he will have mocked all the families who still seek justice for their children, brothers, and parents who were murdered by order of this dictator," Carmen Oyague, aunt of Dora Oyague, a student murdered in the La Cantuta massacre, told *La República*.

There are legislators in Kuczynski's congressional bloc who oppose the pardon. For example, Congressman Juan Sheput says there can be no pardon process without taking victims into account and seeing repentance from the person to be pardoned. It is known that, far from showing any remorse for his crimes against humanity, Fujimori has always declared himself innocent.

The poet and journalist Rocío Silva Santisteban wrote in her column in *La República*, "No one committed to human rights could oppose a real humanitarian pardon, whether the person has committed genocide or is a robber or is corrupt, if he is in a serious situation or had clearly deteriorated due to jail conditions. But under these circumstances, this pardon would be a nod to Fujimorism, which within or outside of the FP, wishes to free the autocrat patriarch." Silva is also a former executive secretary of the human rights organization *Coordinadora Nacional de Derechos Humanos (CNDDHH)*, a consortium of non-governmental human rights organizations in Peru.

In statements to the magazine *Somos*, Nobel Prize winner Mario Vargas Llosa said, "This would not only be a great injustice unleashed by Kuczynski, but it would be a great betrayal of the thousands of us voters who campaigned and voted for him and those of us who had hoped for a real democratic administration. It would be negating himself, negating all that he has represented for us Peruvians who brought him to power."

In the framework of the UN Universal Periodic Review—which measures both progress and setbacks in human rights in all UN member states—the CNDDHH will report in November on its concern about a possible Fujimori pardon.

"One of the main issues of the report will be the danger of a political settlement that means impunity for Alberto Fujimori," the CNDDHH said. "Such a settlement would violate the right that victims of the Fujimori regime have to justice, and would be a serious violation of the international obligations of the Peruvian state in the field of human rights."

Proponents of the pardon say it would be a step toward reconciliation in the country. According to the most recent *Ipsos Perú* poll, carried out between Oct. 11 and Oct. 13, 62% of those polled said they would be in favor of a pardon, but 88% said that, if pardoned, Fujimori should ask forgiveness for the crimes for which he was sentenced. For others, however, a pardon would be a serious political mistake, because it would mean a return to Fujimorism with renewed strength.

Reportedly, Keiko Fujimori, who as FP president controls 70 members of the legislature, doesn't welcome a pardon for her father, because it could create a serious leadership problem for herself. Her brother, the legislator Kenji Fujimori, the main promoter of a pardon, has repeatedly disagreed with the FP, which has resulted in a 60-day suspension from the party and could open the way to his expulsion.

“Behind this possible expulsion from my party there are people who don’t want to see Alberto Fujimori free,” Kenji Fujimori told reporters recently.

Observers note that Kuczynski should carefully evaluate whether granting Fujimori a political pardon would mean achieving an understanding with the Fujimorists that would allow him to govern without major tensions until the end of his term in 2021.

While it is the president’s prerogative to grant a humanitarian pardon, the regulations of the Comisión de Gracias Presidenciales establish that proceedings for this benefit would begin after a request for a pardon is made, after which the commission must designate a medical panel. This has yet to happen.

In July, Kuczynski said a possible humanitarian pardon Fujimori would not be immediate, but would depend on a medical report, which he said he expected to receive before the end of the year.

“The procedure is always activated with a request,” Carlos Rivera, a lawyer with the legal defense group Instituto de Defensa Legal, told La República. “I do not know of any case that originates at the president’s desk.” An irregular pardon would be taken to the Inter-American Court of Human Rights, he added.

“If it is not possible to prove that a health problem has put [Fujimori’s] life in danger, the pardon has a political character. The court will clearly appreciate this, and its only alternative would be to annul the pardon,” Rivera said.

As the former Supreme Prosecutor Avelino Guillén told La República, “Granting a pardon in violation of the law is unacceptable in a state under the rule of law.”

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