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Peru's President Faces Challenges After Pardoning Fujimori

by Elsa Chanduó Jaña

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President Pedro Pablo Kuczynski survived an attempt by Congress to remove him from office last December by making agreements with a sector of the Fujimorista bloc in the legislature. But the political cost of his decision may not allow him to overcome the governability crisis in which Peru is now embroiled, and many believe it will be difficult for him to stay in power until the end of his term in 2021.

The crisis was sparked by Congresswoman Rosa Bartra, of the majority Fujimorista caucus, who heads the congressional committee investigating the bribes the Brazilian giant Odebrecht and other Brazilian construction companies paid public officials in Peru between 2005 and 2014 for public infrastructure contracts ([NotiSur, May 26, 2017](#)).

Bartra reported in mid-December that Mauricio Cruz, Odebrecht's representative in Peru, had provided documents indicating that the firm had made seven payments totaling US\$782,207 to Westfield Capital, a company owned by Kuczynski, for consulting services offered between 2004 and 2007, years during which Kuczynski served as minister of the economy and prime minister under President Alejandro Toledo (2001-2006) ([NotiSur, Set. 1, 2017](#)).

In addition, Bartra said, First Capital, a company owned by the Chilean Gerardo Sepúlveda, a former partner of Kuczynski's, also provided consulting to the Brazilian construction firm between 2005 and 2013 for more than US\$4 million.

"I am communicating concrete facts based on specific documents. ... It is official information received by Odebrecht," Bartra told Canal N.

The president, in a message to the nation, said he had nothing to do with the contracts signed by Sepúlveda, and Odebrecht issued a letter indicating that the payments made to those two entities were negotiated by Sepúlveda and not by Kuczynski. But on Dec. 15, a simple majority in Congress backed a motion to call for the president's removal from office. The motion was presented by representatives of the leftist Frente Amplio with support from Fuerza Popular, the party led by Keiko Fujimori, daughter of former President Alberto Fujimori (1990-2000), who was sentenced to 25 years in prison in 2009 for crimes against humanity. Other backers of the motion were members of Alianza para el Progreso and APRA. The motion to remove Kuczynski from office was based on the president's "permanent moral incapacity," as established in Article 113 of the Constitution, because of his alleged links to Odebrecht.

"We today have met and ratified what we said in the campaign: In terms of corruption, let whoever falls fall," Marco Arana, leader of the Frente Amplio, said at a press conference. "Let them go home. And the Frente Amplio clearly says removal from office, elections, even congressional elections, and a change to the country's Constitution, because these are contracts with the status of law that have brought us to these types of situations in which you can't say anything to corporations."

Several guilds, student groups, and hundreds of young people took to the streets in Lima and other cities to participate in a "March against the Fujimorista coup," asking that due process be followed

in the effort to remove Kuczynski, and that the president be given the right to defend himself and a reasonable amount of time to do it.

But the Fujimoristas were in a hurry. A vote to remove Kuczynski from office took place on Dec. 21, but did not get the 87 required votes. Ten congressmen from Nuevo Perú (a splinter group of the Frente Amplio) left the legislative chambers. Of the rest of the legislators, 78 voted in favor of removing Kuczynski, 19 voted against, and 21 abstained, including 10 Fujimoristas.

In the end, Kuczynski was able to retain his job thanks to the 10 Fujimoristas, led by the former president's son Kenji Fujimori, who abstained from the vote. They were challenged by other Fuerza Popular members for not accepting the "unanimous disposition" to vote in favor of removing the president.

"Peruvians, tomorrow begins a new chapter in our history: the reconciliation and reconstruction of our country. A single force, a single Peru," Kuczynski tweeted a few minutes after Congress rejected the motion to remove him from office.

Impunity pact

Three days after the vote, on Dec. 24, the government announced it had granted a humanitarian pardon Alberto Fujimori. The pardon would allow him to leave prison, and it would end pending judicial processes against him.

"An official medical board has evaluated the prisoner and has determined that Mr. Fujimori is suffering from a progressive, degenerative, and incurable disease, and that the jail conditions represent a serious risk to his life, health, and integrity," read a government notice published in the official newspaper, *El Peruano*.

While Congressman Fujimori used social media to thank President Kuczynski "for his noble and magnanimous gesture" of the humanitarian pardon for his father, various groups of young people and many other citizens took to the streets in protest. Since then, there have been four other protest marches in Lima and other cities in the country's interior, the most recent on Jan. 11.

Days before pardoning Fujimori, Kuczynski had denied he would do it. Second Vice President Mercedes Aráoz, who is also the prime minister, had said that no pardon was in the works. It is now known that, on Dec. 11, Alberto Fujimori had filed a pardon request with Kenneth Mora Landeo, the director of the prison where he was being held. This was the first time that Fujimori himself made the request; 45 other requests for pardons and commutations of his sentence, filed by relatives and others, had been rejected.

La República newspaper noted that Mora Landeo acted with unusual speed in asking the Health Ministry to set up a medical panel to evaluate Fujimori's health. The panel was put together in less than 24 hours and included Dr. Juan Postigo Díaz, the ex-president's head oncologist. Fujimori's pardon process took 13 days. Other prisoners who have benefitted from presidential pardons have had to wait between 90 and 365 days.

Kuczynski had spoken of a pardon for Fujimori on several occasions, and various actions carried out by his government hinted that the way was being paved for a pardon ([NotiSur, Oct. 20, 2017](#)). However, those who mobilized in defense of democracy and challenged the presidential removal

process were astonished that, just days later, the president had essentially turned executive power over to the Fujimoristas.

Executive power

According to the last national survey of 2017 taken by Ipsos-El Comercio, 63% consider that Kuczynski's decision to pardon Fujimori was part of a negotiation process to avoid being kicked out of office.

"Taking this action, especially taking it at this time, only confirms an impunity pact," tweeted Marisa Glave, a parliamentarian from Nuevo Perú. "Those of us who believe in democracy and human rights will defend them always. Without pacts. Mr. Kuczynski must now respond directly to the families of the victims of Fujimori..."

Mario Vargas Llosa, the 2010 winner of the Nobel Prize for Literature, said that Kuczynski's decision to pardon Alberto Fujimori amounted to a betrayal of those who had voted for him.

"Kuczynski negotiated a dirty deal behind closed doors with the dictator's son or the dictator himself: a presidential pardon of a prisoner for 'humanitarian reasons' in exchange for avoiding being dismissed. This explains the mysterious abstentions of the 10 Fujimoristas that saved the president," Vargas Llosa wrote in an opinion piece titled "La traición de Kuczynski" (Kuczynski's Betrayal) published in El País.

Following the pardon, Congressmen Gino Costa, Vicente Zeballos and Alberto Belaúnde resigned from Peruanos por el Cambio, the ruling party. Culture Minister Salvador del Solar, Defense Minister Jorge Nieto, Interior Minister Carlos Basombrío, and several officials from the executive branch also resigned. On Jan. 9, Kuczynski presented a new Cabinet, which he called the Cabinet of Reconciliation, made up mainly of people linked to the business sector. Javier Barreda, an APRA activist who was expelled by his party's political commission, was sworn in as the new labor minister.

Kuczynski "won't stay in power through July," former presidential candidate Verónica Mendoza of Nuevo Perú said after the pardon. "He will fall at any moment because his government is on an artificial respirator ... I want to make it clear that we want reconciliation, and we aspire to having peace. This can be only be based on justice and memory. Mr. Kuczynski has trampled on all that."

The impunity pact kept Kuczynski in office, but many now see him as a weak president who will remain in power only as long as the Fujimoristas allow him to.

"Kuczynski, with his secret agreement, has not used the former dictator, but rather he has become his accomplice and hostage," Vargas Llosa wrote in El País. "From now on, he will have to serve him with his secret pact, or ministers will continue falling, or they will throw him out. And this time there will be no democrats willing to mobilize to defend him."

Pardon could be revoked

The Inter-American Commission on Human Rights (IACHR) has indicated that the pardon granted by Kuczynski disregards international obligations in cases of crimes against humanity.

"By suppressing the effects of convictions for crimes against humanity and serious human rights violations for the benefit Alberto Fujimori, the Peruvian state failed to comply with the provisions

of Inter-American Court judgments and ignored its international obligations,” the IACHR said in a press release.

It said the participation of Fujimori’s private doctor on the medical panel that supported the pardon “flagrantly violates the requirement of independence and objectivity of this board.”

The Inter-American Court of Human Rights has accepted a petition from the relatives of victims of the La Cantuta and Barrios Altos massacres—both committed during the Fujimori regime—and will hear their questions regarding the Fujimori pardon on Feb. 2 in Costa Rica. On Jan. 19, the Justice Ministry sent the court its files on the pardon—the same documents that are still unavailable in Peru. The Peruvian ombudsman has made many requests for the documents, but the Justice Ministry has refused to release them.

Luis Huerta, who heads the Office of the Attorney General, confirmed that the court has sent a notification of the hearing.

“It will be the first time that we analyze whether a humanitarian pardon can be annulled,” he told El Comercio.

Duberlí Rodríguez, president of the Peruvian judiciary, has indicated that what the Inter-American Court decides will be binding on the Peruvian state.

Meanwhile, Fujimori, who had been held in a Lima clinic (Clínica Centenario Peruano Japonesa)—between Dec. 23 and Jan. 4, and then again between Jan. 14 and 16—is now living in a 2,000-sq. meter residence with a monthly rent of \$5,000 in Lima’s exclusive La Molina district, financed by “a group of friends,” according to what his primary physician, Alejandro Aguinaga, told Radio Programas de Peru.

Fujimori had pending fines of more than 51 million soles (US\$15.8 million) to the Peruvian government—civil reparation for crimes of active bribery, fraudulent embezzlement, telephone interference, ideological falsity, and usurpation of functions.

“The pardon covers the punishment, but not the civil reparation,” Anti-Corruption Prosecutor Amado Enco told El Comercio.

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