

Justice for survivors in Peru

by Flor de María Valdez-Arroyo

Peru has taken steps to assist women survivors of sexual violence during armed conflict in their quest for justice and redress but lack of a gender and cultural perspective in establishing appropriate mechanisms jeopardises the process.

Manta is an isolated rural community in Huancavelica, a poor Andean region of Peru. According to the Peruvian Truth and Reconciliation Commission (CVR) Final Report,¹ Manta endured systematic sexual violence during the 1980-2000 insurgency led by Sendero Luminoso (a Maoist guerrilla movement) and the Tupac Amaru Revolutionary Movement. The main victims were poorly-educated women and young girls from highland peasant communities, speakers of Quechua or other indigenous languages who have been traditionally marginalised by both the state and civil society. Manta had a military base throughout the conflict. According to the CVR, the majority of sexual violence crimes were committed by members of the armed forces – whose role it was to protect the civil population. Crimes were often perpetrated during army raids on the houses of suspected subversives and when women came to the base seeking information about detained relatives.

Most of the women remain silent about the sexual violence suffered – because of shame or fear of their family's and/or partner's reactions. The community collectively denies the existence of widespread sexual violence and insists that most sexual contact between women and the military was consensual. They refuse to acknowledge the conclusions of the CVR because they do not want to be known as the 'village of the raped'. Women who seek justice may be accused of

lying in order to obtain compensation or welfare benefits. So intense is social pressure that at one stage only women who had been displaced by the conflict or who had voluntarily moved out from the community were able to speak out and seek justice.

If there is impunity in conflict and post-conflict contexts, crimes of sexual violence against women will recur. The CVR's Final Report was meant to start a process of legal redress and reparation for all victims of violations of human rights, including those of sexual violence within the internal armed conflict in Peru. It proposed a reparations plan to the Peruvian parliament and proposed cases – including Manta – for judicial prosecution.

However, three years after submission of the report, little has been done. The main obstacle to justice for the women of Manta is the failure of the Peruvian criminal code to define sexual violence during conflict as a crime against humanity. Sexual violence can thus only be prosecuted as straightforward rape, rather than as a weapon of war and options for punishment are less severe and subject to statutes of limitation. Peruvian judges and prosecutors are reluctant to apply international customary law to fill this legal void. After all these years and despite all the evidence submitted, no judicial process has been started in Manta.

In 2006 the Peruvian Congress passed a law to implement a reparation plan for all victims of the armed conflict. However, only women survivors of rape are eligible for legal redress. No other forms of sexual violence – such as the sexual slavery, enforced prostitution, forced nudity and forced abortions suffered by many women in Manta – will be considered. Women who were linked to the insurgents are expressly excluded. Sexual violence was part of the strategy used by all protagonists towards women. While the army used humiliation and torture, the insurgents controlled women and used them as combatants, housekeepers and sexual partners for their leaders. A further defect is that all survivors must be included in an official victims register. There is no provision, however, to ensure that their testimonies will be registered with sensitivity and confidentiality. Inclusion on the registry is also dependent on having ID documents such as birth certificates which most rural survivors, especially indigenous women, cannot provide.

Without clearer guidelines and greater political will, survivors of sexual violence in Peru will continue to lose out in the search for justice and reparation.

Flor de María Valdez-Arroyo (valdez.fdm@pucp.edu.pe) works for DEMUS Estudio para la Defensa y los Derechos de la Mujer, Lima (www.demus.org.pe).

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1. Comisión de la Verdad y Reconciliación www.cverdad.org.pe