

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

Index: AMR 46/9273/2018

18 October 2018

Peru: The right of victims to truth, justice and reparation must be guaranteed in the face of measures that would render sentences imposed for crimes under international law illusory

In the light of recent developments in Peru, Amnesty International reiterates that the authorities have an international obligation to impose severe sanctions on those who, whether acting as agents of the state or as members of armed opposition groups, are convicted of crimes under international law or serious violations of human rights.

This international obligation includes ensuring that those responsible for such crimes serve the sentences imposed on them, except in exceptional circumstances, for example when it has been genuinely ascertained that the person is suffering from a terminal illness. Before granting any form of early release that could in effect result in a reduced sentence, the possible impact must be considered, taking into account the seriousness of the crime and the rights of the victims, including their right to participate in the process. The Rome Statute of the International Criminal Court, in particular Article 110 and Rule 223 of the Rules of Procedure and Evidence, clarify the criteria that should guide the Peruvian courts regarding possible reductions of sentences in such cases.

According to the Rome Statute, only the Court may decide to reduce the sentence and only provided that the sentenced person has served two thirds of their sentence or has spent 25 years in prison in cases of life imprisonment. In addition, the person must have shown an early and continuing willingness to cooperate with the Court's investigations and prosecutions, or offered voluntary assistance in enabling the enforcement of the judgments and orders of the Court in other cases, in particular providing assistance in locating assets subject to orders of fine, forfeiture or reparation which may be used for the benefit of victims.

Further, the Rules of Procedure and Evidence establish as additional criteria for the reduction of a sentence the conduct of the sentenced person while in detention, which should show a genuine dissociation from their crime, and the prospect of the resocialization and successful resettlement of the sentenced person. Other factors to be taken into account are whether the early release of the sentenced person would give rise to significant social instability; any significant action taken by the sentenced person for the benefit of the victims as well as any impact of an early release on the victims and their families; and the individual circumstances of the sentenced person, including a worsening state of physical or mental health or advanced age.

In summary, any measure that seeks to render sentences imposed for crimes under international law or human rights violations simply illusory breaches Peru's international obligations and constitutes a further affront to the right of victims to truth, justice and reparation.

Further information:

On 11 October 2018, the Peruvian Congress approved a bill to allow “a humanitarian modality for the serving of sentences” [“modalidad de ejecución humanitaria de la pena”] for older adults who have served a third of their sentence. If enacted by the President, this law would benefit former president Alberto Fujimori and others sentenced for crimes that constituted crimes under international law.

This law was approved a few days after the Preparatory Trial Court of the Supreme Court of Justice declared that the pardon granted to former President Alberto Fujimori on 24 December 2017 had no legal effect.

For more information or to arrange an interview, please contact Duncan Tucker: +52 (1) 55 4848 8266, duncan.tucker@amnesty.org

See also:

Peru: Decision to overturn Fujimori pardon confirms that victims’ rights must take priority over political decisions (News, 3 October 2018)

<https://www.amnesty.org/en/latest/news/2018/10/no-aplicar-indulto-fujimori-reafirma-derechos-de-victimas/>

Peru: National court to review pardon granted to former President Alberto Fujimori (News, 21 September 2018)

<https://www.amnesty.org/en/latest/news/2018/09/peru-tribunal-nacional-revisara-el-indulto-otorgado-al-ex-presidente-alberto-fujimori/>

Peru: Inter-American Court rules that the Peruvian courts should review the pardon granted to Fujimori (News, 18 June 2018)

<https://www.amnesty.org/en/latest/news/2018/06/peru-corte-interamericana-resuelve-que-tribunales-peruanos-deben-revisar-el-indulto-concedido-a-fujimori/>

Perú: Indulto y Gracia a Alberto Fujimori es duro golpe a la lucha contra impunidad [Peru: Pardon and grace granted to Alberto Fujimori is a bitter blow in the fight against impunity] (News, 25 December 2017) [Spanish only]

<https://www.amnesty.org/es/latest/news/2017/12/peru-indulto-y-gracia-a-alberto-fujimori-es-duro-golpe-a-la-lucha-contra-impunidad/>