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Top Americas court finds Peru responsible for torture of trans woman

The Inter-American Court of Human Rights ordered Peru to pay a transgender woman arbitrarily detained and raped by police in 2008.

By Oscar Lopez

Thomson Reuters Foundation (06.04.2020) - <https://bit.ly/2RRu3Mj> - The top human rights court in the Americas has found Peru responsible for the arbitrary detention and rape of a transgender woman in a landmark case marking the first time it has ruled on a complaint of torture against the LGBT+ community.

The Inter-American Court of Human Rights in a ruling made public on Monday said Azul Rojas Marin had been the victim of an act of torture in 2008, and it ordered the government to pay her unspecified damages.

According to her lawyers, Marin was detained by police in 2008 in northern Peru and while in custody was stripped, hit and raped with a truncheon by police.

Marin had filed a criminal complaint against police but the case was dismissed by state prosecutors, and human rights groups took it to the Inter-American Court on her behalf.

As the judicial arm of the 35-member Organization of American States, the court hears cases of human rights abuses in Latin America and can order governments to investigate crimes and compensate victims.

The ruling, issued on March 12 but made public on Monday, ordered Peru to provide psychological treatment to the victim, adopt new protocols for investigating attacks against LGBT+ people and track statistics of violence against the community.

The ruling marked the first time the court has ruled on a complaint of torture against a member of the LGBT+ community, rights campaigners said.

"It is a very emblematic case. It's historic because it classifies the violence received by this woman as torture," said Andre Mere Rivera, a local LGBT+ rights activist.

"It makes the state responsible for the violence and discrimination that (the LGBT+ community) has historically suffered and continues to suffer," he told the Thomson Reuters Foundation.

A spokeswoman for the Peruvian ministry of justice and human rights did not immediately respond to a request for comment.

In its ruling, the court said Marin's detention was discriminatory, illegal and arbitrary.

"Ms. Rojas Marin was forcibly stripped naked, beaten on several occasions ... and was the victim of rape; constituting an act of torture against the victim," the court said in a statement.

Consequently, it said, Peru was responsible for the violation of her rights.

Despite growing acceptance of LGBT+ people in Peruvian society, gay and trans Peruvians face legal hurdles and societal prejudice.

Gay marriage is not recognized in Peru, although trans people are allowed to change their gender legally.

A 2015 study by the Peruvian government found 90% percent of LGBT+ residents in and around the capital Lima had been victims of some type of violence, of which nearly 19% was at the hands of state security agents.

The decision came as trans Peruvians contend with measures enacted by the government to curb the coronavirus outbreak by ordering that men and women can only leave home on separate days.

Rights advocates said the rule has left trans people vulnerable to invasive questioning and harassment by police, despite government assurances that enforcement would be free from discrimination.
