



# Abortion, neglect, and the death of Augusta García Platas in Ayacucho, Peru, in 1946

*Raúl Necochea López*

Professor, Department of Social Medicine/  
University of North Carolina, Chapel Hill.  
333 South Columbia Street #348  
27599-7240 – Chapel Hill – NC – USA  
necochea@med.unc.edu

Received for publication in June 2014.  
Approved for publication in January 2015.

Translated by Catherine Jagoe.

<http://dx.doi.org/10.1590/S0104-59702016005000021>

NECOCHEA LÓPEZ, Raúl. Abortion, neglect, and the death of Augusta García Platas in Ayacucho, Peru, in 1946. *História, Ciências, Saúde – Manguinhos*, Rio de Janeiro, v.24, n.1, jan.-mar. 2017. Available at: <http://www.scielo.br/hcsm>.

## Abstract

Augusta García Platas died after a clandestine abortion in Ayacucho in 1946. This article, based on material in the Historical Archive in Ayacucho, examines the criminal trial that was held to determine who was responsible for her death. Although the judicial authorities accused certain individuals of being directly responsible for inducing an abortion, they considered that the root cause of the young woman's death was neglect on the part of those who were supposed to protect her physical and moral health. This case provides an opportunity to clarify the strategies used by the defendants to refute criminal charges. It also helps us understand the various deficiencies of the Peruvian legal system in the mid-twentieth century.

Keywords: abortion; Peru; neglect; crime; sexual and reproductive health.

“It is difficult to imagine abandonment more frightful than that in which the menace of death is combined with that of crime and shame.”

Simone de Beauvoir (1949, p.489).

This article examines the first abortion case to be widely discussed in the city of Ayacucho, Peru, after the death of a young woman named Augusta García Platas, in 1946. My work complements existing research on family planning in Latin America in the twentieth century, a body of literature with two main branches. The first, which comes from public health, identifies how the frequency of abortion became one of the most widely-used arguments for promoting contraceptive use and population policies in the region from 1950 on (Rice-Wray, 1964; Corvalan, 1979). The second branch, which is more historical, stresses that abortion, one of the most common ways of terminating a pregnancy at that time, was not only the province of physicians, but also of other social actors, including political and ecclesiastical authorities, the makers of pharmaceutical products, and, of course, women who did not wish to be pregnant. It thus became a topic laden with significance, which deserves greater attention (Rohden, 2003; Medina, 2008; Pieper-Mooney, 2009; Soto Laveaga, 2009; Felitti, 2012; Necochea López, 2014), especially given its ongoing relevance in Peru (Perú, 1999).

This article recognizes the above contributions and also considers new questions, particularly ones concerning the relationship between social neglect and abortion. The moral, political and social connotations of neglect make it a prominent issue in the history of Latin America. Various actors, at least from the eighteenth century on, describe how neglect leads to poverty, dishonor, anomie, violence, illness, and, eventually, death (Mannarelli, 1993; Stern, 1995; Zárate, 1996; Few, 2002; Cueto, 2004; O’Phelan, Zegarra, 2006). Newborn infants and women are prominent in the historiography of neglect and abandonment, but young people, and even cities and entire geographical regions, can also suffer from the condition. The common denominator of neglect, as a concept, implies a legitimate demand for material and social capital in the form of money, food, education or affection, for example, which is ignored. Although there is a stigma attached both to people suffering from neglect (because of their vulnerability and inability to advocate for themselves) and to perpetrators of neglect (because they fail to fulfill their responsibilities), it is the former who suffer the worst consequences. This characteristic makes neglect a relationship in which one of the parties has the privilege of ignoring a socially recognized bond, whereas the other suffers or, in a best-case scenario, is forced to resort to third parties to re-establish the bond and/or receive some form of aid.

Resorting to third parties in order to repair the damage caused by neglect is an important issue in the case I will analyze here. The Ayacucho court saw neglect as the fundamental reason why Augusta García Platas became pregnant and sought an abortion, and it took an active role in reconstructing the events in order to amend the injustice that both she and, to a much lesser extent, the aborted fetus, suffered. In other words, this case gives us the opportunity to consider new actors involved in constructing abortion as a social problem: the police and the legal system.

Abortion features prominently in debates about women’s health around the world in the nineteenth and twentieth centuries (Reagan, 1991; Duffin, 1992; Jensen, 1993; McLaren,

1993; Ruggiero, 2004; Del Campo Peirano, 2008; Randall, 2011). Given the illegality and stigmatization of abortion in the majority of these cases, women had to keep both their intention to have an abortion and the identities of those who performed the procedure a secret. They also had to resort to a clandestine market of abortion providers, which put each woman at risk of falling into the hands of providers with little incentive to protect their clients if medical complications arose.

The case of Augusta García Platas belongs to this type of research, and is a good illustration of the stir caused in a small Andean city by the first reported case of an abortion. Unlike earlier cases, however, my analysis stresses the efforts made by members of Augusta García Platas' social circle to protect her from the worst consequences of her situation as a neglected adolescent. This case also indicates that the concept of neglect was used pejoratively by the legal authorities, while family members tended to emphasize autonomy as necessary for young people to become responsible adults. Furthermore, this case underlines the role of the Peruvian justice system in determining criminal liability, not as a competent and impartial institution, but just the opposite: the justice system that discussed this case demonstrated essential deficiencies, harmful prejudices, and may well have imprisoned an innocent person.

## **The scene**

Situated at 2,752 meters (9,029 feet) above sea level, the city of Ayacucho, also known as Huamanga, is the capital of the department of Ayacucho in Peru, the location of the final battle that clinched the independence of South American colonies from Spain in 1824, and the cradle of the bloodthirsty Shining Path guerrilla movement in 1980. Huanta and Ayacucho, in the northern part of the department, were the two cities with the greatest number of landowners at the beginning of the twentieth century. Although rural estates in these areas drove commercial activity in the region, their production levels remained low. Furthermore, the department of Ayacucho had no significant agricultural product that would have encouraged the concentration of land ownership, unlike other areas of Peru, such as the northern coast, which became a center for intensive cultivation of crops such as sugarcane and cotton from the end of the nineteenth century on.

The city of Ayacucho, on the other hand, did have a small but active mercantile economy, which took place in doorways and streets in the city center, full of shops carrying products favored by indigenous people from rural areas, who were the main consumers in the city. Small business holders, however, did not live in the city center, which was mainly occupied by the social elite. Instead, small business owners settled mainly in outlying neighborhoods, many of which contained people who practiced the same occupation (craftsmen, laborers and mule drivers, for example) and celebrated their own traditions and festivals (Degregori, 1986; Glave, Urrutia, 2000; Zapata, Pereyra, Rojas, 2010).

The road building spree during the government of Augusto B. Leguía (1919-1930) led to some important changes. The Highway Law resulted in more than 300km (186 miles) of roadways connecting Ayacucho with other departments. Small businesses began to appear in the towns along these roads, which were increasingly used by trucks instead of pack animals transporting merchandise. In some cases, the initiative for road building came from the

villagers themselves. However, the road from Ayacucho to Lima via Huanta and Huancayo, which was opened in 1924, was built by forcibly recruiting indigenous people. Similarly, the Leguía government undertook infrastructure works in Ayacucho, including the construction of new avenues, a water supply system and a city hall, all in connection with the hundredth anniversary celebration of independence in 1924 (Rivera, 1971; Brisseau, 1972; Kapsoli, Reátegui, 1972; Manrique, 1983; Contreras, 1987).

Broadly, the decades from 1920 to 1940 led to intense involvement by political forces not previously represented by the elite exporters who dominated the country from the late nineteenth century up until 1919. These included the Alianza Popular Revolucionaria Americana (American Popular Revolutionary Alliance, known as Apra), the movement with the most popular appeal in the mid-twentieth century. The Leguía government also managed to bring together urban working class groups alongside reformers in the bourgeoisie who favored a modernizing, interventionist, and authoritarian state, allied with foreign capitalists and technocrats (Cotler, 1978; Klaren, 2000; Drinot, 2012).

How were these political changes at the national level experienced in Ayacucho? Towards the end of the 1920s, frustration with Lima's dominance began to feed a growing support for Apra among the urban elite, which was largely composed of landowners and professionals. When Leguía fell, there was a period of political instability during which a faction of Apra called the Federación Aprista Juvenil (Young Aprista Federation) managed to seize control of the city for a few days in October 1934. The uprising was put down by the military, leaving the power of the urban elite unscathed. Meanwhile, at the national level, Apra began to downplay its image as social agitator from the mid-1930s onward, and drew a little closer to the political elite, culminating in a "co-government" during the administration of President José Luis Bustamante y Rivero from 1945-1948.

In the mid-1940s, the city of Ayacucho had 18,275 inhabitants (Perú, 1944, p.11). From a health care standpoint, the hygienist Maxime Kuczynski Godard (1946) considered it a "rurban" locale, which shared the same problems as rural areas of the department. Malaria was a common illness, as were tuberculosis, dysentery, syphilis, goiter, and alcohol and coca abuse. Poverty, malnutrition, and lack of sanitation exacerbated these problems. The national and local governments did not provide sufficient resources to monitor epidemiological threats, attract health care personnel, obtain reliable statistics, or train rural health care workers adequately. As a result, the life expectancy at birth in 1945 was only 18.7 years for men and 22.5 for women. The birth rate was stagnant at 158 children per thousand women aged 15-45 (Perú, 1944, p.CXXXIX) and population growth was due only to persistent migration from higher altitude regions. Herbalists and pharmacies partly met the needs of the sick, but they were not always geographically accessible or affordable for all. Professional medical care was rare and expensive. Up until 1960, when the New Hospital was built, the only hospital in the city of Ayacucho was the Hospital of Saint John of God, built in 1555 and run by the Saint John of God priestly Order since 1628. Located in the city center, it was a one story building, with an entryway that led to a main courtyard and galleries with arches and stone pillars. The additional four courtyards housed bedrooms, patient rooms, a kitchen, laundry, storehouse and office (González,

Gutiérrez, Urrutia, 1995). On the afternoon of January 17, 1946, Augusta García Platas, a young woman of eighteen, arrived there, gravely ill.

### **Who caused the death of Augusta García Platas?**

The subsequent criminal investigation, which lasted from January 1946 to January 1947, led to the indictments of doctor José Víctor Denegri Aspauza; Banco de Crédito manager Santiago Cánepa Schenone, and midwife Carmela Fernández Ponce.<sup>1</sup> According to doctor Denegri, Cánepa Schenone arrived at his private medical practice at 16:00 hours on January 17, with the urgent news that Augusta García Platas, his maidservant, was gravely ill. When doctor Denegri reached the patient's home, he ordered the adolescent to be transferred rapidly to the Hospital of Saint John of God, because she was experiencing a genital hemorrhage. After reaching the hospital, doctor Denegri operated for nearly an hour, assisted by mother superior Bernardina Pantoja, nursing aide Germán Zevallos, and nurse Aristeo Yépez. According to the doctor, the patient's cervix was dilated approximately two centimeters, "allowing the finger to be inserted." He also removed a placenta, which he estimated to correspond to a pregnancy of four months, although he found no fetus. His diagnosis was "a case of incomplete and infected abortion of approximately four months, with sepsis" (Informe..., 31 ene. 1946). The following day, Denegri went to the police station and reported a suspected abortion to the authorities, although he did not file a written statement or mention the patient's name, or permit the police to interrogate the convalescing patient. On January 19, García Platas died in hospital.

Doctor Denegri's report, written several days after Augusta García Platas' death, led to an investigation with serious consequences for those involved. The Ayacucho police force determined that García Platas "was operated on by a midwife whose illicit occupation was to proboke [sic] and extract fetuses of varying ages," and they set about trying to discover the identity of this midwife (Reportes..., 31 ene. 1946; 9 feb. 1946; 27 mar. 1946).

The first people interviewed by the police were witnesses who had seen the young woman in the days leading up to her death, revealing a dense social network of friends and relatives in her life. García Platas had been renting a house with María Ramírez Limachi and Angélica Cárdenas Figueroa in the Jirón Londres neighborhood (Manifestación..., 31 ene. 1946c). It was in a convenient location, close to the city's main plaza, indicating that the women renting it enjoyed a certain social status, despite being employed as domestic servants. The day before her hospitalization, García Platas and her cousin Alicia Loayza Platas had dinner with their aunts Carmen Arriarán Acosta and Ubaldina Platas Acosta. Ubaldina stressed that García Platas was "in perfect health" that day. However, the following morning, when her housemates were leaving for work, García Platas asked them to call the midwife Carmela Fernández Ponce to treat the pain in her waist area, which she was having as the result of a fall she claimed to have suffered the previous day. Her housemates Ramírez Limachi and Cárdenas Figueroa did as she asked, and also went to fetch Ubaldina Platas Acosta. On arriving at her niece's house, Platas Acosta heard Carmela Fernández Ponce say that she "had already fixed and bound up her belly" so it would stop bleeding (Declaración..., 18 feb. 1946).

Although the midwife and the aunt left García Platas alone, housemate Cárdenas Figueroa returned home at midday, having mentioned the problem to a neighbor, María Cárdenas de Vega, a seamstress who knew García Platas because she was a school friend of her daughter's (Manifestación..., 1 feb. 1946c). Cárdenas de Vega, to whom García Platas owed money for sewing some tablecloths, decided to go and visit the sick woman. Her situation was deteriorating; she was prostrate in bed, with abdominal pain and a fever. García Platas asked Cárdenas Figueroa to call the midwife Fernández Ponce again. Several hours went by, but the midwife did not arrive. Then García Platas asked Cárdenas Figueroa to call her employer, Santiago Cánepa Schenone (Manifestación..., 31 ene. 1946a).

Cánepa Schenone was part of the city's small but prestigious professional class. His company had been obliged to change names in 1942 due to sanctions imposed by the Manuel Prado regime on Axis funds during the Second World War. The recently renamed Banco de Crédito, formerly known as the Banco Italiano, was at that time expanding through the provinces in Peru. The bank manager in Ayacucho, Cánepa Schenone, lived alone in the Colonial Hotel, in the city center, having separated from his wife the year before. His laundry woman, Carmen Arriarán Acosta, who was Augusta García Platas' aunt, had recommended he hire her niece as a maid. When he found out that she was ill, Cánepa Schenone went to see her and tried to comfort her, saying, "Don't worry, dear, I'll send for a doctor for you." In addition to bringing in doctor Denegri, Cánepa Schenone paid for a car to drive García Platas to the hospital, a private room, doctor Denegri's fees, and, finally, the young woman's funeral, all of which cost over 230 soles (Instructiva..., 12 feb. 1946; 1 abr. 1946).

Two women waited at the hospital while doctor Denegri operated on García Platas: Angélica Cárdenas Figueroa, her housemate, and María Cárdenas de Vega, her neighbor. When the operation was over, around 18:30 hours, they both went back to García Platas' house, where they found the midwife Carmela Fernández Ponce. They confronted her angrily, saying they had been "frantically waiting for [you]; why didn't you come?" They blamed their friend and neighbor's hospitalization on the midwife's delay, while the midwife defended herself, saying she had been with another patient. According to Fernández Ponce, García Platas looked weak and gaunt when she saw her that morning, "skin and bone," but she didn't notice anything about her that predicted what was to come. She had given her an injection of camphor oil, as well as a chamomile enema with hydrogen peroxide. Fernández Ponce had realized the young woman was pregnant, and judged that García Platas' complaint was "something temporary," caused by the fall she claimed to have suffered at work (Manifestación..., 31 ene. 1946b; 1 feb. 1946b).

Augusta García Platas' cousin, Alicia Loayza Platas, was the first member of the family to find out that she was in hospital, thanks to the chauffeur who drove her there, who worked for the same family as Loayza Platas. She and her aunt, Carmen Arriarán Acosta, went to see García Platas the following day, January 18. The mother superior, Bernardina Pantoja, confided to them that there had been an abortion. Arriarán Acosta asked García Platas directly, "Sweetie, what did you do, or did you take some concoction?" The young woman said that the midwife Carmela Fernández Ponce had given her an injection for 45 soles, and that she had indeed had an abortion (Declaración..., 1 feb. 1946; 19 feb. 1946; Manifestación..., 1 feb. 1946a). García Platas never specified whether the midwife had performed an abortion.

After all, the injection of camphor oil had been intended to control infection. It was one of the few remedies used frequently, since antibiotics were not widely used in Ayacucho, although they would become so over the next decade (Perú, 1962). Nor did García Platas give the name of the father. At that point she was in extreme pain and frightened, saying that “her belly burned and she felt nauseous, that she was going to die” (Declaración..., 27 mar. 1946). The only thing the hospital staff could do was to try and control the infection with more injectable camphor oil and to manage the pain with cold water packs. The ambiguity in her confession of an abortion in these circumstances, in which her physical suffering was mingled with fear of death and shame, is entirely understandable.

The neighbor, María Cárdenas de Vega, also went to visit García Platas that day, “since she was increasingly intrigued,” but, since she was not a member of the family, “no one would tell her the truth.” Frustrated but still interested, she was the one who voiced the suspicion that Santiago Cánepa Schenone was the child’s father. While she went with Carmen Arriarán Acosta on the sad task of buying a coffin, she asked the leading question, “Why the interest from mister Cánepa?” Other circumstances fed her suspicions. Her daughter Justina had heard a rumor that Cánepa Schenone had been pressuring García Platas “to get involved with him” since before she started working for him (Reporte..., 26 nov. 1946b). Besides, Cárdenas de Vega witnessed a heated exchange between Cánepa Schenone and the housemate Cárdenas Figueroa when they saw how ill García Platas was. Cánepa Schenone ordered Cárdenas Figueroa to go and get medical help, to which she answered drily, “You go yourself. I can’t go.” At that moment, Cárdenas de Vega “thought of something suspicious. A maid like [Cárdenas Figueroa] could not possibly be so rude in speaking to or answering a gentleman like mister Cánepa.” Such familiarity between Cánepa Schenone and García Platas’ domestic circle indicated that they were more than master and maid. The authorities viewed this testimony with considerable satisfaction, and added that “members of the court state that the witness, by the naturalness [with which she speaks], has declared the truth, all the more so because she is demonstrably an honest woman with a clean conscience and has no reason to lie or stray from the truth and is only interested in having the truth be known” (Manifestación..., 9 feb. 1946).

The police were grateful for the lead, weak as it was, about an intimate relationship between García Platas and Cánepa Schenone, since they were looking not only for the person who actually performed the abortion, but also its intellectual author. As a wealthy single man, Santiago Cánepa Schenone fit the profile for a charge of instigating an abortion, since he had a lot to lose by becoming the father of a child with a woman to whom he was not married. As for the abortionist, the authorities had no better candidate than the midwife Carmela Fernández Ponce.

### **Accusations and rebuttals**

Despite the fact that both Cánepa Schenone and Fernández Ponce were charged simultaneously, only the midwife was detained while the investigation proceeded. The case soon sparked public interest. After all, as prosecutor Alarcón would later write, there had never been an abortion case in his district in all his thirty-plus years in the position, although

it was a crime “that in cities in other countries, and even elsewhere in Peru, is a common aspect of modern life” (Reporte..., 26 nov. 1946a). Clandestine abortions had, in fact, been a hot topic in Peruvian medical circles since the mid-1920s. In 1924, a law was passed that legalized therapeutic abortion, defined as an abortion carried out by a doctor with the woman’s consent, if there was no other way to avoid her death or serious injury (Perú, 1924, libro 2, sección 1, art. 163). Since then, the conservatism of the medical profession had become more noticeable. On the one hand, doctors feared that demand for abortion services might increase and overtake the supply of medical personnel, creating the conditions for a lucrative black market to arise in which the participation of lay practitioners would be inevitable. On the other hand, doctors suspected that the legalization of therapeutic abortion would lead to greater sexual freedom, by breaking the connection between sexual intercourse and offspring (Fosalba y Muro, 1929; Escudero Villar, 1930; Busalleu, 1938).

These debates at the national level began to be echoed in Ayacucho with the publicity surrounding the case. Despite the high level of illiteracy in poor neighborhoods like Carmen Alto, Belén, or Magdalena, there were avid readers among state employees, school teachers, and craftsmen. For these people, there were various daily newspapers available, such as *El Poccra*, *Antara*, *Crisol*, *40*, and *Cahuide*, all pro-Aprá publications. The flimsy, sensationalist, and confusing coverage of the case by *El Poccra* began with a note reporting that “the brutal theory of Malthus is being put into practice in an unscrupulous and criminal way. Preventive measures to defend human capital cannot match the social danger around us, as the facts make clear; in the face of that [danger] no prophylaxis will work, since we are dealing with nothing less than the extirpation of a human seed by human hands. The facts we have involve a certain woman, skilled in the trade and already the author of various deeds, who acts – as they say – under the technical direction of a professional. Who is that professional, and who the woman?” (*El Poccra*, 31 ene. 1946).

The person who fared worst as a result of the investigation, 43-year-old Carmela Fernández Ponce, claimed to have studied for two years at the Obstetrics School at the Maternity Hospital in Lima, and supplemented her income with occasional sewing in order to support her five children. She soon sought help from the lawyer Salvador Bravo Hornas, a well-known member of the Constitutional Party, regional supporters of the Leguismo that had renovated the city. Fernández Ponce, a midwife for over twenty years, defended her decision to administer an enema to García Platas because she knew that pregnancy could cause constipation. She denied that an abortion could be caused in this way, since abortion could only be performed with “probes and vaginal manipulation that have to be done in a clinic.” She remarked that doctor Denegri could have caused the hemorrhage by removing the placenta during the operation. In his testimony, doctor Denegri had said that the placenta was infected, and he estimated that the abortion had taken place seven or eight hours earlier. Fernández Ponce denied that an infection could have developed in such a short time, and suggested that someone else must have operated on García Platas. But it was not possible to determine who that person was since, according to the midwife, Cánepa Schenone had bribed all the witnesses. In other words, in trying to clear the suspicions directed at her, Fernández Ponce blamed doctor Denegri, Cánepa Schenone, and an unknown abortionist (Ponce, 4 feb. 1946; 30 abr. 1946).



Part of the midwife's desperate strategy was reasonable, given the state of medical knowledge at that time. That a fatal infection like the one García Platas suffered could incubate in just eight hours was difficult to demonstrate. Doctor Denegri was the first to admit that his estimate might be modified on the basis of better evidence, since "in medicine, conclusions are not instantaneous, given that it is not an exact science" (Manifestación..., 22 jul. 1946). Meanwhile, the police considered the hypothesis that García Platas had suffered the effects of some kind of abortifacient, after finding the syringe used by the midwife Fernández Ponce and a bottle of pills "possibly containing toxins, herbs like oregano, etc." in the young woman's house (Reporte..., 1 feb. 1946).

The bottle in question contained Reglovar, a female hormone prescribed for the "rational treatment of ovarian failure." The local police, unable to determine the function of this medication, sent samples to Lima. The Laboratorio Técnico Policial (Police Technical Laboratory) in the capital determined that "this substance is widely used in America to stimulate uterine contractions, and is a substitute for ergot of rye; sometimes it is also used as an abortifacient." But they could not confirm that the drug had been used for that purpose, "since there are many reasons why a professional might prescribe this preparation." The same report confirmed that the content of the midwife's syringe was camphor oil, to combat infection, and not an abortifacient (Reporte..., 25 abr. 1946).

The hypothesis of the use of an abortifacient suffered another setback with written testimony from the distinguished physician Guillermo Fernández Dávila (1926), a professor at the Faculty of Medicine in Lima and one of the most vocal critics of the practice of clandestine abortion. That someone as prestigious as Fernández Dávila should have taken an interest in the Ayacuchan midwife's defense indicates how well-connected her lawyer was to the medical power network in Lima. Doctor Fernández Dávila stated that ingestible abortifacients were generally not effective and that, furthermore, they rarely caused septicemias like the one that killed García Platas. Like doctor Denegri, doctor Fernández Dávila declared that the infection was caused by retention of the placenta after a previous operation. Furthermore, doctor Fernández Dávila categorically absolved the midwife, saying that "the lady practitioner did not intervene in performing the criminal abortion that led to the whole situation and caused the patient's death" (Fernández Dávila, jul. 1946). The main reason behind his opinion was that, for septicemia to have occurred on January 17, the infection must have started days, not hours, earlier. There were no witnesses claiming that Carmela Fernández Ponce had treated Augusta García Platas days earlier. There were only witnesses to the treatment administered by Fernández Ponce the day that García Platas fell gravely ill.

While Fernández Ponce was waiting for the results of the trial in jail, Cánepa Schenone was being subjected to *ad hominem* attacks in court. The judge of the Segundo Juzgado (Second Court) in Huamanga, José Anchorena Hugueta, described Cánepa Schenone's relationship with García Platas as "extremely intimate." It did not make sense for him to pay for a maid when he could pay one of the employees at the hotel where he lived to clean his room. Nor that he allowed a woman to care for his fighting cocks, when it is men who "understand those tasks better." It was obvious, according to the judge, that Cánepa Schenone was "the seducer" who instigated the idea of an abortion and offered the money to do so, since having a child with an unmarried woman "compromised his position as a respectable man in society."

In the judge's opinion, it was the court's duty to defend all those who feared testifying against "a big man" like Cánepa Schenone. The fact that he paid for García Platas' funeral was not evidence of generosity, but the result of his desire to minimize the scandal, "before the crime that had been committed became public knowledge" (Reporte..., 12 jul. 1946).

Judge Anchorena Huguet berated the midwife Fernández Ponce, using even flimsier arguments. He cited the gossip spread by *El Poccra* as evidence of her activity as an abortionist, adding that "public opinion is almost never wrong." The lack of knowledge proved no obstacle to his vague conclusion that Fernández Ponce had "operated on her in the way they [midwives] know how to do." Besides ignoring the testimony of doctor Fernández Dávila, which was, admittedly, clouded by the Lima doctor's lack of familiarity with the evidence, the judge refused to believe the report of the Police Technical Laboratory, insisting that the midwife's syringe did indeed contain an abortifacient (Reporte..., 12 jul. 1946).

What was already a perverse caricature of justice turned cruel with the decision by the prosecutor, Pino, attached to the Second Court, to charge doctor Denegri for obstruction of justice since, "among two equally sacred duties, [doctor Denegri] had to decide between one which was more painful to carry out, namely to notify Captain Morales of the [patient's] poor prognosis, and facilitate his interrogating the injured woman; and the other [which] was to do what he did, to take care of the sick woman and spare her the emotions that would have shaken her during interrogation. But he chose the less painful of the two" (Reporte..., 26 nov. 1946b).

After months of deliberations, the prosecutor eventually asked for a two year jail term for Cánepa Schenone for abortion, and two for Fernández Ponce for abortion and the illegal practice of medicine. The prosecutor also demanded that both pay 1,500 soles in civil reparations to García Platas' family. For Denegri, for the crime of obstruction of justice, the prosecutor demanded a fine of 300 soles and a civil reparation of 100 soles for García Platas' family (Reporte..., 26 nov. 1946a). Even though the prosecutor ordered that Cánepa Schenone be taken into custody, there is no indication that this actually occurred. Furthermore, the ruling issued in January 1947 does not mention him at all. The same ruling absolved Denegri and lowered Fernández Ponce's fine to 1,000 soles, noting that she had no criminal background and that "in her family conduct she reveals noble sentiments" (Lectura..., 16 ene. 1947). Luckily for her, she was freed in July 1947, given her fragile health and the recommendation of the warden of the New Prison in Ayacucho, who wrote that the midwife had "shown impeccable conduct" (Alcaide..., 14 jun. 1947; Réplica..., 4 jul. 1947). This put an end to a problematic trial, whose result may well have deprived an innocent woman of her freedom.

The deficiencies in the trial were due, in part, to material shortages. Prosecutor Alarcón acknowledged that a better equipped laboratory might have produced better forensic evidence and he took the opportunity to advocate for "a judicial police force to be established, which according to article 599 of the PPC [Peruvian Penal Code] exists in Peru according to the written letter of the law" (Reporte..., 26 nov. 1946a). The police investigations division had recently been disbanded thanks to pressure from Apra legislators (Quiróz, 2013, p.348). This change was advantageous for Apra's clandestine operations during the Bustamante y Rivero government, but, as we shall see, it had harmful repercussions in other areas of the administration of justice.

Material shortages aside, however, the trial also reveals incompetence and gross prejudice on the part of the magistrates and prosecutors, who merely confirmed the image of the Ayacucho legal system as a “playground of *tinterillos* [shysters]” (Heilman, 2010, p.114). These defects were added to others that have already been extensively studied by other experts in twentieth-century Peru, such as the lack of access to the courts, delays on trials, and corruption (Cooper, 1975; Ratliff, Buscaglia, 1997; Whipple, 2013). However, a complementary way of interpreting the severity with which the defendants were treated and the tendency to pay attention to poor-quality inculpatory evidence is that it was a vehement and ineffective response to the phenomenon which several people in this tragedy saw as the root cause of the death of Augusta García Platas: neglect.

### Final considerations

The death of Augusta García Platas bolstered an argument that was already popular among Peruvian medical experts in the mid-twentieth century: that those who neglect or abandon young people endanger them and at the same time create the conditions for innocents to turn into criminals (Salcedo, 1944). It could not be overlooked that García Platas had committed a crime in getting an abortion, according to the Criminal Code of 1924, as well as having been a victim of one. Whose responsibility was it to look out for the teenager’s welfare? From the beginning of the investigations, witnesses and authorities stressed that García Platas was an under-age minor who had been neglected by those who were supposed to provide protection and guidance: her relatives. All of those who should have protected her, however, tried to argue that the blame for the fatal outcome was not theirs.

Augusta García Platas’ neighbor, María Cárdenas de Vega, had known her since 1944, as the young woman went to school with her daughter Justina. Justina Vega had even invited her friend to a family party at her home. Cárdenas de Vega did not approve of this invitation, since “it was not possible for an under-age girl, who was only about 16, to be at a party with adults.” After that, however, Cárdenas de Vega “grew fond of her,” because she was “all alone, neglected by her father” (Declaración..., 9 feb. 1946). Indeed, the housemate Angélica Cárdenas Figueroa agreed that García Platas’ only source of income was her work as a maid, and that her father in Huanta “didn’t send her anything” (Manifestación..., 31 ene. 1946a).

The father, Augusto García Franco, ran the Carrión Pharmacy in Huanta, the second-largest city in the north of the department. Thanks to the road linking Huanta and Ayacucho since 1924, people could travel from one to the other in a matter of hours. Augusta García Platas often went back and forth between the two cities and, in late 1944, she became pregnant by Angel Limaco in the city of Ayacucho. This must not have been a common occurrence in the department of Ayacucho because of the 74,311 women who gave birth in 1940, only 73 were aged 17 (Perú, 1944, p.112). García Platas’ father, however, agreed to let the young couple carry on living in Ayacucho “with [Limaco] in charge of caring for his daughter, while they went through with the proposed wedding” (Declaración..., 22 feb. 1946). With this understanding, García Franco went back to his business in Huanta.

The couple’s home life was relatively calm for some months. They even hired a cook, Angélica Cárdenas Figueroa, who subsequently became García Platas’ housemate. García

Platas and Limaco's daughter was born in May 1945, but she died in July. A few months later, Limaco alleged that, as his deceased daughter had been born "damaged," with a hare lip that made it impossible for her to breastfeed, probably "one of the two of them might be ill." Since he did not wish to have any more children with García Platas, Limaco abandoned the home they shared. When García Platas informed her father what had happened, he "noted tranquility in the said daughter," all the more so because she said she had found work as "a lady's companion." After that, García Platas lived independently in Ayacucho. Her father, however, stressed the strong ties binding her to her family in Huanta. He admitted that it had been he who provided her with the Reglovar pills "to alleviate the pain and heavy bleeding" that his daughter suffered during her periods. He also stressed that "he never would have given abortifacients to his daughter, either for herself or another person," and that, furthermore, she "would never have permitted herself to make that sort of suggestion" since she "respected and feared him a great deal" (Declaración..., 22 feb. 1946).

In the same report that castigated Santiago Cánepa Schenone as a womanizer, Judge José Anchorena Huguet laid the blame for the fatal outcome on the father who had not concerned himself with his daughter's moral welfare, despite being a "licensed pharmacist with a good income" (Reporte..., 12 jul. 1946). García Platas' aunts also deserved a share of the blame, according to the judge, for their indifference toward the signs that their niece was going down a bad path. Indeed, according to her aunts, García Platas was "a gadabout who went from one party to the next." It was in order to get her to "become responsible" that her aunt Carmen Arriarán Acosta found her a job with Cánepa Schenone (Declaración..., 18 feb. 1946; 19 feb. 1946). Approximately 5,000 people, out of a total population of over 414,000 in the department of Ayacucho, worked as domestic servants in 1940. Of those, however, only 617 were, like Augusta García Platas, young women between 15 and 19 years old (Perú, 1944, p.3, 394). In other words, it was not a typical occupation for her demographic group. Her aunts' insistence that she take the job shows their interest in getting their niece to develop better habits.

According to witnesses, however, García Platas' discipline at work was somewhat lacking. Her neighbor Angélica Cárdenas Figueroa remembered seeing her "walking around on the street during work hours, and when asked what she was doing, she said her boss wasn't at home" (Manifestación..., 31 ene. 1946a). Her employer, Cánepa Schenone, mentioned her tardiness and even the fact that "there had been cases when Augusta disappeared, taking the room keys with her." Despite this, in view of her vulnerability on the day she became gravely ill, Cánepa Schenone claimed that he had helped her because it was "his duty as an employer to help deal with his employees' pain and needs, out of a feeling of compassion" (Manifestación..., 24 jul. 1946).

The events of this case demonstrate a dilemma in regards to young people and the risks to their health and their physical and moral wellbeing. On the one hand, the legal system insisted that domestic work increased the possibility that young women would fall victim to men's lower instincts. In fact, there was a strong conservative intellectual current in Latin America in the middle of the twentieth century that presented all work by women outside the home as a risky activity that deformed women's character and exposed them to danger (Guy, 2000; O'Phelan, Zegarra, 2006). On the other hand, García Platas' family insisted that

she work, not so much because she needed money, but because, in their view, work instilled dignity and discipline. Also, it is important to bear in mind that García Platas' father gave her permission to live with a man without being married and then to live alone, which emphasizes how important independence was to him and to other parents as a proof of character and not necessarily as something sexually shameful that would put their children in danger. The emphasis on a couple's independent life before marriage also has additional basis in the Andean custom of *servinacuy*, which gives couples a trial period before they receive the community's blessing through a formal marriage (Ortiz Rescaniere, 1993; Villavicencio, 1942). Indeed, García Platas' father believed that his daughter and Angel Limaco planned to get married, which is why he gave the young couple permission to live together. The story becomes even more complex if we consider how curiosity and a taste for experimenting with different pleasures on the part of Augusta García Platas may have led her, like other adolescents, to disregard the risks to her health resulting from her decisions. In other words, what some people saw as a case of neglect, others saw as a necessary part of growing up, and others yet as an opportunity to enjoy life as an independent adult. There were risks and opportunities involved in each of these situations.

This case also shows the importance of certain social factors that led to injustices. The midwife, Carmela Fernández Ponce, lost her freedom because a court ignored exculpatory evidence. The same court failed to impose a single day of jail time on Santiago Cánepa Schenone, in spite of the fact that the two faced equal charges. Structural violence, in the form of harsher treatment for the poor, was a constant throughout the trial. Also, the death of Augusta García Platas was one of so many tragedies that, throughout Latin America, would reinforce the medical notion that preventing unwanted pregnancies through the use of family planning methods would reduce the number of abortions and thereby improve women's health in the region. Augusta García Platas may not have been wealthy, but she had schooling and some financial support from her family. The fact that a young woman with a certain level of resources should have come to this end would have indicated to the emerging group of family planning advocates that an unwanted pregnancy could happen to any woman.

However, in the middle of the twentieth century, and even in our times, there remained those who saw abortion as a problem that did not affect everyone equally: a problem that fundamentally involved young people, and above all young women, who were neglected by adults who were supposed to provide them with protection and guidance. This is the case for the Catholic church in Peru, which condemned the recent Supreme Court ruling that decriminalized sexual relations among adolescents aged 14-18 (Perú, 2012). Those who defended the ruling did so based on the pragmatic recognition that adolescents have sexual relations, and that criminalizing them merely alienates young people from the medical and psychological resources that could help them have more rewarding sexual experiences as well as preventing teen pregnancy and sexually transmitted diseases, including HIV/AIDS (UNFPA, 2012). The Episcopal Commission for the Family, Childhood and the Defense of Life for the Peruvian Episcopal Conference disagrees. Its president, monsignor José Antonio Eguren, fears that the Supreme Court's decision endorses "the lower passions" among adolescents and will produce "more unmarried mothers and fatherless children who will fall, through neglect, into crime and all manner of moral and social degradations" (Eguren Anselmi, 2012, p.2).

The position of the Catholic church does not include any self-criticism about its decades-long treatment of sexuality as something shameful. However, it is worth taking into account the church's alarm about the possibility that the state might use this measure to stop providing protection for a vulnerable population in the interest of permitting more individual liberty, thus opening the door to abuse and injustices that once cost Augusta García Platas her life. From this point of view, increasing contraceptive use could well prevent damage to individuals' health, but would merely be a partial remedy to a broader moral and social problem.

## NOTE

<sup>1</sup> All the citations and court documents mentioned hereafter can be found in the file titled "Contra Carmela Fernández Ponce y Santiago Cánepa por el delito de aborto, y doctor José Victor Denegri por el delito de administración de justicia," 1946, in the Ayacucho Regional Archive, Peru, criminal complaints section.

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