

PERU

@Army officers charged with murdering La Cantuta University lecturer and students

An army major and an unspecified number of army officers and soldiers - possibly as many as 11 - have been charged by a Public Ministry civilian prosecutor with the kidnapping, enforced disappearance and murder of a lecturer and nine students from the National University of Education Enrique Guzmán y Valle, commonly known as La Cantuta University¹. According to reports, the criminal charges were filed at the Palace of Justice on 16 December 1993. The names of those charged have not been made public.

According to allegations made by dissident military officers in April and May 1993, the victims were abducted and killed on 18 July 1992 by members of a "special detachment" within the *Servicio de Inteligencia del Ejército*, SIE, Peruvian Army Intelligence Service. In July and November 1993 clandestine graves containing the remains of the victims were discovered on the outskirts of Lima, the capital. Investigations into the clandestine graves were ordered and directed by Dr Víctor Cubas Villanueva, the Public Ministry's civilian prosecutor who subsequently filed the criminal charges.

However, it is not clear whether the case will be heard under the jurisdiction of a civilian or a military court. In April 1993 a parallel investigation into the allegations was opened by the *Consejo Supremo de Justicia Militar*, CSJM, Supreme Council of Military Justice. It was in the context of these investigations that President Alberto Fujimori told journalists in November 1993 that at least four officers, including a major whom he named, had been arrested on the orders of the CSJM. On 8 December 1993 the Minister of Defence, Peruvian Army General Víctor Malca, told Congress that his Ministry did not have the authority to stop the case being heard under the jurisdiction of the military justice system. A decision as to which jurisdiction will eventually hear the case may have to be taken by the Supreme Court of Justice.

Amnesty International welcomes the steps taken by Dr Cubas to ensure a thorough investigation into the circumstances, manner and cause of death of those persons whose remains were found in the graves, and to bring to justice those responsible before a civilian court. However, the organization is gravely concerned that the military personnel accused may instead be brought to trial under the jurisdiction of a military court, despite enforced disappearance and aggravated homicide being civil offences in Peru's Criminal Code.

Amnesty International is also seriously concerned that many of those allegedly implicated in the case have not been investigated by an independent judicial authority. Those implicated include a senior government official and high ranking members of the

¹ This report was written in December 1993 and is based on information received by Amnesty International until 20 December 1993.

armed forces accused of ordering, planning and directly carrying out the crime, or approving and subsequently covering up for it.

THE ABDUCTIONS AT LA CANTUTA UNIVERSITY

Between 1.00 and 3.00 a.m. on 18 July 1992 lecturer Hugo Muñoz Sánchez and nine students² were abducted from the campus of La Cantuta University by members of the Peruvian army. The University is located on the outskirts of Lima, the capital. Hugo Muñoz was abducted from his university home, and seven male and two female students were forcibly taken from their student residences, all located within the campus. None of them were seen alive again. At the time La Cantuta University was occupied by a military detachment which controlled the campus grounds, including all entrances and exits. The campus was also under a military-controlled curfew between the hours of 10.00 p.m. and 6.00 a.m.

In the ensuing months relatives of the victims persistently attempted to locate the "disappeared". However, *habeas corpus* petitions filed in favour of the victims proved fruitless, and attempts by the relatives to bring to public attention unanswered questions about the fate of their loved ones went generally unheard. Furthermore, in October 1992 the Government of Peru transmitted to the United Nations Centre for Human Rights in Geneva, Switzerland, a communication from the Ministry of Defence which stated: "The Armed Forces Joint Command, having completed its investigations, has reported that [the lecturer and students] had not, under any circumstances, been detained or captured by members of the army."

On 2 April 1993 parliamentarian Henry Pease announced before Congress that he had received an unsigned document which stated that the lecturer and nine students had been abducted and killed by members of the army attached to the SIE. The document stated that it had been written on the basis of information supplied by dissident army officers claiming to be sympathetic to human rights. Henry Pease's announcement contributed to the decision by Congress to set up a special commission of inquiry into the alleged abductions. The contents of the document, and the initiative taken by Congress to investigate the allegations, led the military, in mid-April 1993, to order the Supreme Council of Military Justice to conduct an investigation "into the army personnel responsible for the crimes of abuse of authority and against the life ... of one lecturer and nine students from [La Cantuta University]".

² The victims were: Hugo Muñoz Sánchez (47), Bertila Lozano Torres (21), Dora Oyaque Fierro (21), Roberto Teodoro Espinoza (23), Marcelino Rosales Cárdenas (22), Juan Mariño Figueroa (29), Felipe Flores Chipana (23), Luis Enrique Ortiz Perea (20), Armando Amaro Condor (21), Heráclides Pablo Meza (29).

Three weeks later, on 5 May 1993, General Rodolfo Robles Espinoza, the third highest ranking general in the Peruvian Army, made public a signed document in which he claimed that "the crime at La Cantuta ... was perpetrated by a special detachment of intelligence which operates under the direct orders of presidential advisor and virtual head of the SIN [National Intelligence Service] ..., the operations of which are coordinated with the Army Intelligence Service (SIE) and the Army Intelligence Directorate ... (DINTE), but always approved by and with the full knowledge of the Commander General of the Army". General Robles, who also accused other high-ranking army officers of being implicated in the crime, immediately sought refuge in the Embassy of the United States of America in Lima, and was later granted refuge in Argentina, after having alleged that he received death threats.

Congress' commission of inquiry into the abductions and "disappearances" published a majority and a minority report in mid-June 1993. The majority report concluded that La Cantuta University was under curfew and the strict control of the military at the time of the abductions, that armed personnel dressed in military clothing entered the campus during curfew hours, and that "unidentified armed personnel ... selected and detained [the] group of students and the lecturer". In contrast, the minority report claimed that "neither the Peruvian Army nor the National Intelligence Service were responsible for the disappearance of the lecturer and students", and suggested that the lecturer and students had arranged their own disappearance. Congress, dominated by a political party which supports President Alberto Fujimori's government, on receiving the reports, voted to reject the majority report and adopt that of the minority.

THE CIENEGUILLA AND HUACHIPA GRAVES

On 8 July 1993 journalists from the weekly magazine *Sí*, following information received from dissident military sources, discovered four clandestine graves in an isolated gully, off the Lima to Cieneguilla Highway. The editor of *Sí* told journalists that information received by the magazine indicated the graves possibly contained the remains of the lecturer and nine students. Orders to excavate the graves were given that day by Dr Cubas, the prosecutor attached to the Public Ministry. Fragments of human remains and other evidence retrieved then and in the following days were sent for analyses by Peruvian forensic experts. Representatives from human rights organizations present at the site on the first day's excavations indicated that the remains appeared to have been burned and transferred to the Cieneguilla site from elsewhere.

In September 1993 Dr Cubas provisionally concluded that the human remains found in the Cieneguilla graves were those of some of the victims abducted from La Cantuta University. This conclusion was based on forensic analyses of bones and other human remains retrieved from the Cieneguilla graves. In addition, clothing and keys, which Dr

Cubas proved opened the university lockers of two of the students, and the gate and front door of the home of one these students, were also identified by the victims' relatives.

Following additional information received by the magazine *Sí* from sources linked to the dissident Peruvian Army officers referred to above, in early November 1993 Dr Cubas ordered the excavation of further clandestine graves discovered at a firing range used by the Peruvian National Police. The firing range is located on the Ramón Prialé Highway, leading to Huachipa, near Lima. These graves were also thought to contain remains of the victims abducted from La Cantuta University. As a result of these excavations, bone fragments, a human skeleton, clothing, and other evidence of forensic interest, were retrieved for analyses and identification. Relatives of the victims present at the site were able to verify that clothing and other belongings found in the graves were those of the victims.

According to the information published by the magazine *Sí*, the lecturer and nine students abducted in the early morning of 18 July 1993 had been taken to the firing range that morning, shot in cold blood, and buried there. Again according to the magazine's sources, in April 1993 members of the SIE returned to the Huachipa site, exhumed some of the remains, and transferred them to the Cieneguilla site.

In November 1993 President Fujimori told journalists that the Supreme Council of Military Justice had ordered the arrest of at least four officers implicated in the case and named one of them as Major Santiago Martín Rivas.

A CASE FOR MILITARY OR CIVILIAN JURISDICTION?

On 1 December 1993, Dr Cubas, the Public Ministry's prosecutor, publicly announced that sufficient evidence had been compiled to implicate members of the army in the abduction, "disappearance" and illegal killing of the lecturer and nine students. In making the announcement, the prosecutor stated that the case would be referred to the jurisdiction of the civilian courts. Days later the Public Ministry's Attorney General, Dr Nélica Blanca Colán, backed the prosecutor's remarks.

Dr Cubas wrote to the president of the Armed Forces Joint Command and the president of the Supreme Council of Military Justice, requesting information as to the identity and place of detention of those members of the military whose arrest had been ordered by the Supreme Council of Military Justice. A military examining judge responded by ruling that the request could not be acceded to since the case was under investigation by the military justice system. Under procedural regulations governing the work of public prosecutors, a prosecutor must individually identify the suspects, prior to formally filing criminal charges before a civilian examining judge.

On 8 December 1993 the Minister of Defence, Peruvian Army General Victor Malca, informed Congress that at least four members of the military were under arrest in connection with the case. The Minister did not reveal the names and ranks of those detained, with the exception of Major Santiago Martín Rivas, and did not specify the place where any of them were held. In addition, the Minister stressed that his Ministry had no authority to stop the Supreme Council of Military Justice bringing the accused to trial under military jurisdiction, despite the Attorney General asserting that the case properly belonged to the civilian jurisdiction.

By 20 December 1993 it was not clear whether those responsible for the abduction of the lecturer and students on 18 July 1992, and for summarily killing them and disposing of their bodies, were to be brought to justice under the jurisdiction of the military or civilian courts. In Peru, where two judicial systems investigating the same crimes claim jurisdiction over a case, the Supreme Court of Justice may decide as to whether a military or civilian court will be granted jurisdiction. Over the past years the Supreme Court of Justice has invariably decided in favour of the military justice system hearing cases involving allegations of human rights crimes by members of the armed forces. However, prior to the Supreme Court of Justice ruling on a dispute as to jurisdiction, the military justice system has sometimes been known to investigate and hear the case, issues a final sentence, and declare the case closed. In such an event, the Supreme Court of Justice, when it has come to decide on the issue of jurisdiction, has ruled that the case cannot be heard under civilian jurisdiction because it has already been heard by a military court.

Amnesty International believes that investigations by the military justice system into human rights violation crimes perpetrated by the security forces lack independence. Moreover, jurisdiction decisions by the Supreme Court of Justice which favour the military justice system consolidate the sense of impunity enjoyed by the military in Peru. It is in the context of such impunity that the vast majority of at least 5000 reported cases of "disappearance" and extrajudicial execution perpetrated by the security forces between 1983 and 1993 remain unresolved, and the perpetrators unpunished.

Amnesty International is aware that this pattern of human rights violations has been perpetrated in the context of widespread atrocities by the armed opposition groups *Partido Comunista del Perú (Sendero Luminoso)*, PCP, Peruvian Communist Party (Shining Path), and the *Movimiento Revolucionario Túpac Amaru, MRTA*, Túpac Amaru Revolutionary Movement. These atrocities include cases of execution of people held by the PCP and MRTA; the deliberate and arbitrary killing of defenceless civilians not directly involved in the armed conflict; and the killing of members of the security forces who are *hors de combat*, or who have been incapacitated, have surrendered or are detained by these groups. Nevertheless, such abuses can **never** justify the fate suffered by the lecturer and nine students from La Cantuta University, or the thousands of other victims whose fundamental rights have

been violated by the Peruvian security forces during the past 13 years of internal armed conflict.

AMNESTY INTERNATIONAL AND THE ABDUCTIONS AT LA CANTUTA UNIVERSITY

Amnesty International first reported the abduction and "disappearance" of lecturer Hugo Muñoz and the nine students in September 1992, and appealed to the authorities to investigate their whereabouts. Since then the organization has closely monitored developments associated with the case, on the basis of information provided by numerous sources, including relatives of the victims, eye-witnesses and independent Peruvian human rights organizations.³

In May 1993 Amnesty International wrote and made public a letter to President Alberto Fujimori regarding allegations in which dissident General Robles accused the army of being responsible for the abduction and killing of lecturer Hugo Muñoz and the students. Amnesty International called on the President to order a halt to the investigations initiated in April by the military, on the grounds that the organization believed the inquiry not to be independent and that the full truth behind the allegations would not be uncovered. Amnesty International urged the President to instead ensure that a full, impartial and independent public inquiry be conducted into the allegations, and that those found responsible for the killings be brought to trial before a civilian court.

In early July 1993 Amnesty International delegates travelled to Buenos Aires, Argentina, to interview dissident General Robles, and then to Lima, Peru, to carry out follow-up work on the case. On receiving the invitation of the magazine *Si* and the *Coordinadora Nacional de Derechos Humanos*, an independent human rights organization, to be present when the Public Ministry representatives arrived at the site of the Cieneguilla graves, two Amnesty International delegates and a film crew accompanying the delegation travelled to the site. The delegation and film crew were able to assist the Public Ministry representatives with a preliminary survey of the graves and film aspects of the first day's excavations, during which human bones, a set of keys which were later proved to belong to

³See Peru: "Disappearance" of a lecturer and nine students, AI Index: AMR 46/45/92, September 1992; Peru: "Disappeared" lecturer and students killed by the army, AI Index: AMR 46/09/93, April 1993; Peru: Army seeks a cover-up of summary killings, AI Index: AMR 46/12/93 April 1993; and Peru: AI writes to President Fujimori regarding allegations made by an army general of extrajudicial executions by the security forces, AI Index: 46/WU 01/93, May 1993.

one of the students, and other evidence were retrieved from two of the four graves⁴. Subsequently, Amnesty International was refused permission by the Public Ministry's Attorney General to assist in further excavations and in the analyses of the remains, despite the organization offering the expertise of internationally recognized forensic anthropologists brought to Peru by the organization, and of facilities in England for identifying the Cieneguilla remains using DNA analysis techniques. DNA studies are designed to confirm or refute the hypotheses that the human remains submitted for analysis are those of the person or persons they are hypothesized to belong to.

Following Amnesty International's visit to Peru, the organization wrote in July 1993 to the Public Ministry's Attorney General urging her to reverse her decision to exclude from the investigations internationally recognized forensic experts. Amnesty International welcomes the subsequent decision taken by the Public Ministry to send bone samples said to have been found in the Cieneguilla graves, together with blood samples from relatives of the victims, for DNA analyses at the Forensic Science Service (FSS) in Birmingham, England. The FSS is an executive agency of the Home Office of the United Kingdom. By mid-December 1993 these studies were not known to have been completed.

The organization also welcomes the measures taken by Dr Cubas in November 1993 to ensure that the site containing the Huachipa graves was cordoned off and protected by the police, and that a qualified and experienced archaeologist and physical anthropologist was made use of to ensure that the remains found in the graves were excavated using techniques designed to identify, document, preserve and analyse the evidence retrieved.

RECOMMENDATIONS

Amnesty International believes the evidence surrounding the circumstances under which Hugo Muñoz and the nine students from La Cantuta University were abducted and killed in July 1992 is such that the Peruvian authorities at the highest level must ensure that:

- all civilians and members of the Peruvian Army alleged to be implicated in ordering, planning and conducting the abduction and extrajudicial execution of the lecturer and nine

⁴ In October 1993 Amnesty International published Getting away with murder: Political killings and "disappearances" in the 1990s, AI Index: ACT 33/25/93. In this report the organization made reference to Amnesty International delegates being present at the Cieneguilla graves on the day the graves were opened. The report stated in error that "In mid-1993 ... an Amnesty International research team of forensic pathologists witnessed and filmed the exhumation of the bodies of the students and lecturer from four mass graves". In fact, the Amnesty International delegates present at the site were not forensic pathologists and, as is evident from the above text, did not witness the exhumation of the bodies. The organization apologizes for the errors.

students from La Cantuta University, and of the subsequent concealment of the abduction and killings, be fully investigated by an independent civilian authority;

- all those found to be responsible for criminal offences in connection with the case be brought to justice before a civilian court, and be punished with terms of imprisonment which are proportional to the gravity of the crimes committed;

- the terms of reference, methods of investigation, and results of all the investigations conducted by both the military and civilian authorities into the case of La Cantuta University, be made public;

- the relatives of the victims be adequately compensated;

- human rights violations by the security forces are brought to a halt, all past and future violations are thoroughly investigated by an independent body, and those found responsible are brought to justice before the civilian courts.