

PERU

Military officers imprisoned as prisoners of conscience

In May 1995 Amnesty International published a report expressing concern that three retired Peruvian military officers could face imprisonment as prisoners of conscience for having publicly criticized Peru's military operations during the recent armed conflict with Ecuador.¹

General Walter Ledesma Rebaza and navy captain Luis Mellet Castillo were detained in April 1995. Brought to trial on charges of "*ultraje a la Nación*", "insult to the Nation", and "*infidencia*", "disloyalty", respectively, both military officers were sentenced by the *Consejo Supremo de Justicia Militar*, Supreme Council of Military Justice, to 40 days imprisonment. General Walter Ledesma has now completed his sentence. Captain Luis Mellet, who spent 23 days in detention, was freed when his sentence was suspended.

General Carlos Mauricio was detained on 11 May 1995. He was charged with the crime of "disloyalty and insult to the Nation". On 2 June the Supreme Council of Military Justice sentenced him to one year of imprisonment. Following an appeal against his conviction, on 5 June the Review Tribunal of the Supreme Council of Military Justice rejected the appeal and raised his sentence to 14 months.

Amnesty International declared the three military officers to be prisoners of conscience in the belief that they were detained solely for having peacefully expressed their opinions criticizing Peru's military operations during the armed conflict with Ecuador. Amnesty International is urging the authorities to immediately and unconditionally release general Carlos Mauricio.

BACKGROUND

In late January 1995 armed conflict broke out between Ecuador and Peru over a long-standing border dispute. The armed conflict was confined to a relatively inaccessible region of the Amazon jungle. Fighting consisted of aerial bombings and artillery firing on military posts, and of skirmishes between ground troops. On-and-off fighting lasted until late March. By the end of May a permanent truce and solution to the border dispute continued to be negotiated, in collaboration with the observation and participation of Argentina, Brazil, Chile and the United

¹See *Peru: Military officers may face imprisonment as prisoners of conscience*, AI Index: AMR 46/05/95, May 1995. Amnesty International defines as prisoners of conscience those persons detained or otherwise physically restricted by reason of their political, religious or other conscientiously held beliefs or by reason of their ethnic origin, sex, colour or language, provided they have not used or advocated violence.

States of America, the guarantors of the 1941 Rio de Janeiro Protocol, which demarcated the border between Ecuador and Peru.

President Alberto Fujimori of Peru and the Peruvian *Comando Conjunto de las Fuerzas Armadas*, Joint Command of the Armed Forces, were criticized by politicians and commentators across the political spectrum for the country's military performance, particularly during the initial weeks of the conflict. The armed conflict coincided with the run-up to the Peruvian presidential and congressional elections in April, at which President Fujimori was elected to a second presidential term of office. His main opponent for the presidency was former UN Secretary General Javier Pérez de Cuéllar. Two of the retired military officers referred to above, generals Ledesma and Mauricio, were closely linked with Javier Pérez de Cuéllar's electoral campaign. The former acted as Javier Pérez de Cuéllar's political adviser on military matters and the latter was a congressional candidate for his political party.

Prior to the trial of the three military officers, the Supreme Council of Military Justice stated that opening a judicial investigation was justified because *"los miembros de las Fuerzas Armadas...en situación de actividad o retiro"*, "active or retired members of the Armed Forces", are subject to the *"leyes y normas que regulan la función castrense"*, "laws and regulations which govern military functions". However, lawyers representing the accused have argued that former members of the security forces who have retired enjoy civilian status and that therefore the accusations their clients faced contravene the right to freedom of expression enshrined in the Constitution of Peru.

In a press release issued by the *Coordinadora Nacional de Derechos Humanos*, CNDDHH, a Peruvian umbrella organization bringing together some 40 independent human rights groups, the CNDDHH cited article 2(3) of the Constitution of Peru, which protects the right to freedom of expression, and article 2(4) which states that expressing an opinion is not a crime. The CNDDHH also made reference to article 12 of the *Ley de Situación Militar*, Law of Military Situation, which specifies that only *"oficiales en situación de actividad y/o disponibilidad"*, "officers who are active and/or in a position of availability", are subject to the laws enshrined in the Code of Military Justice. The Law of Military Situation apparently makes no reference whatsoever to officers who have retired from active service.

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/ ARMED CONFLICT /