

PERU

Army seeks a cover-up of summary killings

Amnesty International is seriously concerned about a series of actions taken by the Peruvian army which the organization believes are intended to prevent knowing the full truth behind the alleged summary execution of a university lecturer and nine students in July 1992. The decision by the Army General Command to have the allegations investigated under the jurisdiction of the military justice system, combined with public statements by the President of the Armed Forces Joint Command, Commander General Nicolás de Bari Hermoza Ríos, and other army generals, directed against a congressional human rights commission also investigating the allegations, appear as a concrete effort to conceal the truth. Amnesty International also believes that, in the event of the truth being concealed, the army will have reinforced the virtually unbroken impunity it has enjoyed during ten years of systematic and gross human rights violations in Peru.

The investigations by the military tribunal and the congressional commission centre on the case of the alleged abduction and extrajudicial execution of lecturer Hugo Muñoz Sánchez and nine students from the Enrique Guzmán y Valle University of Education. (See *Peru: "Disappearance" of a lecturer and nine students*, AI Index: AMR 46/45/92, September 1992 and *Peru: "Disappeared" lecturer and students killed by the army*, AI Index: AMR 46/09/93, April 1993). The university, which is located on the outskirts of Lima, the capital, is also known as La Cantuta University. In the early hours of 18 July 1992, members of the army reportedly entered the university campus and abducted the nine students. Around the same time a group of hooded men reportedly entered the campus home of lecturer Hugo Muñoz Sánchez and detained him.

At the time the armed forces told a Public Ministry provincial prosecutor that it had no knowledge of the detentions. An *habeas corpus* writ filed in favour of the victims around the same time was rejected by a judge, also on the grounds that the army claimed not to have detained the lecturer and students. On 28 October 1992 the Government of Peru informed the United Nations Centre for Human Rights that, following an investigation by the army, the Ministry of Defence had concluded that the "[students and lecturer] had not been detained or captured by members of the army under any circumstances".

On 2 April 1993 Henry Pease, member of the Democratic Movement of the Left and opposition member of the Democratic Constituent Congress (CCD), told the CCD that he had in his possession information indicating that the victims had been abducted and killed by members of the army. The CCD immediately approved a motion setting up a special human rights commission to investigate the allegations. The commission, known as the Special Commission of Inquiry, is made up of five parliamentarians: three, including the president, are linked to opposition parties and two are linked to parties supporting the government.

According to a report in the official Peruvian newspaper *El Peruano*, the *Consejo Supremo de Justicia Militar*, Supreme Council of Military Justice, opened pre-trial proceedings on 16 April 1993 "against army officers and troops who prove to be responsible for the disappearance of [the victims]". The proceedings were opened on the basis of a formal complaint about "crimes against the life, body and well-being" of the victims. The complaint was laid before the Supreme Council of Military Justice by the *Comandancia General del Ejército*, Army General Command. Amnesty International is concerned that the military tribunal may arrive at a judgement which will effectively mean the perpetrators will go unpunished. Given the poor record of the military justice system in dealing with human rights violations by the security forces, the organization believes the decision to have the allegations heard by such a tribunal is conducive to perpetuating the sense of impunity enjoyed by the Peruvian armed forces. Amnesty International also believes that should this be the outcome, the full facts behind the alleged "disappearance" and summary killing of the lecturer and students may never be made public.

Two days later, on 18 April 1993, the Peruvian daily newspaper *Diario Uno* published in full a document which, according to the document, was written by "members of the military organization *León Dormido* who identify themselves with a respect for human rights and of whom some were eye-witnesses to [the] events". *Diario Uno* claimed the document lacked a letterhead, stamp and signatures, but added that the information and seriousness of the allegations in it merited a full investigation by the Special Commission of Inquiry set up by Congress a fortnight earlier.

The document gives a detailed account of the military operation which resulted in the abduction and killing of the lecturer and students, the burial of the bodies, and their subsequent exhumation on 19 July 1992. The authors of the document claim in it that the abduction and killings were carried out as a reprisal for the car-bomb attack carried out by the clandestine armed group *Partido Comunista del Perú (Sendero Luminoso)*, Communist Party of Peru (Shining Path), three days earlier, in Miraflores, a Lima neighbourhood. Some 22 citizens died in this attack and another 200 were injured. The document includes the names of the officers that ordered, took part in, and were in full knowledge of, the abductions and killings. The document concluded: "the possibility that the corpses were disintegrated to conceal their possible location is not ruled out".

On 20 April 1993 Commander General Nicolás de Bari Hermoza Ríos appeared before the congressional Special Commission of Inquiry set up to investigate the fate of the lecturer and students. *Diario Uno* reported Roger Cáceres Velásquez, member of Congress and president of the Special Commission of Inquiry, as saying that General Hermoza had told the inquiry that at no time had there ever been authorization or orders given by the high command of the army to carry out the incursion into La Cantuta University. Congressman Cáceres added that the General had told the Commission he had not ruled out that the students and lecturer had been abducted by third parties, possibly paramilitary elements. The

member of Congress also reported that General Hermoza had claimed the document said to have been authored by officers belonging to the organization *León Dormido* was "apocryphal and prefabricated".

Following his appearance before the Commission, General Hermoza gave a press conference. According to press reports, General Hermoza reiterated the points he made before the Special Commission of Inquiry. General Hermoza was also reported to have said of the opposition members of Congress linked to the inquiry that they "appear to be colluding with terrorism ... they have launched a campaign to discredit and insult the Peruvian army" and added that "I am not going to tolerate that". President Alberto Fujimori was reported to have stated in the city of Cuzco, while on an official visit, that he backed the statements made by General Hermoza. However, on his return to Lima, in a televised address, President Fujimori, in an apparent admonition of army commanders for their harsh language used against opposition parliamentarians, was reported as saying that he guaranteed the new Congress' autonomy and right to investigate other branches of government.

In a communique issued by 15 Peruvian army division and brigade generals on 21 April 1993, the generals also expressed their complete support for the statements made by General Hermoza. The communique prefaced a public show of military force by the army on 21 and 22 April in which dozens of tanks were reported to have been deployed at strategic sites around Lima, the capital, and hundreds of officers and troops showed up at Lima's main military base to show their support for General Hermoza. The generals stated in their communique:

"The crude attempt by a small group of Congress opposition members to incriminate the Peruvian army in an alleged violation of human rights by maliciously using apocryphal and forged documents is not an isolated incident. Rather, it forms part of a campaign, systematically orchestrated both at home and abroad, aimed at discrediting the security forces, limiting their operational counter-insurgency capacity, generating a lack of trust among the population, deteriorating the unity and cohesion of the army, and provoking a sterile clash between the [different] branches of the state. As such, they are acting as allies of the internal enemy". (Unofficial translation).

Journalists, foreign diplomats and other commentators described the statements made by General Hermoza and other generals, and the show of force, as an attempt to intimidate members of Congress opposed to the Government, including those involved in the congressional inquiry. Some commentators went as far as to say that General Hermoza's statements, and the ensuing communique and show of force by the army, did not bode well for Peruvian human rights and Peru's attempts to return to democracy.

An independent human rights organization concluded that "these serious events ... demonstrate the decision of the armed forces, in particular the Peruvian army, to prevent, from now on, complaints and investigations being carried out into human rights violations". The organization added: "this situation leads to a fear for the integrity of the opposition

members of Congress, the press and other persons and institutions, among them human rights organizations, who denounced the La Cantuta University case and many other [past] human rights violations perpetrated by the security forces".

On 23 April 1993, in an apparent attempt to defuse the tensions created between the armed forces and Congress, the Minister of Defence, General Victor Malca, told the CCD in a speech that the authorities will definitely clear up the case of the "disappeared" people from La Cantuta University and punish those responsible.

BACKGROUND

Since January 1983 Amnesty International has obtained information, including detailed reports and testimonies, of widespread "disappearances", extrajudicial executions and torture by members of the security forces. These violations have mostly occurred in zones declared under a state of emergency and placed under political-military command. The pattern, evident during the administrations of former presidents Fernando Belaúnde Terry (1980-85) and Alan García Pérez (1985-90), has continued under the present government of President Alberto Fujimori. All three administrations have failed to take steps to investigate impartially and thoroughly the vast majority of these violations and to bring those responsible to justice.

Since 1983 Amnesty International has documented the cases of at least 4,200 people who "disappeared" in Peru after having been detained by the security forces. According to the Public Ministry, an autonomous government institution headed by the Attorney General and charged with investigating human rights violations, 5,419 "disappearances" were denounced to the Ministry during the 12-year period 1981 through 1992. Of these, over 4,000 remained unresolved. Thousands more people have been killed since 1983 by government forces in extrajudicial executions, including some 500 people in 18 separate massacres documented by Amnesty International. Of these, eight massacres were reported to have been carried out during the present government's term of office. Reports of torture and ill-treatment by the security forces have also been frequent throughout the period.

Impunity

Amnesty International believes that the phenomenon of impunity, that is the failure to bring to a halt the pattern of human rights violations in Peru, thoroughly and independently investigate past and ongoing violations, and bring to justice and punish those responsible for the thousands of "disappearances", extrajudicial executions and torture cases, is one of the key factors contributing to that pattern being maintained.

Peru is obliged by the international human rights treaties which it has ratified, and by the present Constitution, to investigate all human rights violations. Provisions for the immediate investigation of human rights violations are also contained in the regulations governing the Public Ministry; and in the right to file a *habeas corpus* petition. Despite these obligations, there have been few full and independent judicial investigations during the past 10 years, even in cases of gross human rights violations. Usually, in those rare cases where judicial investigations have been initiated, the investigations have not been satisfactorily taken forward and concluded. In still others where the alleged perpetrators are brought to justice, military tribunals almost invariably hear the cases and absolve the accused. By the end of April 1993, of the thousands of "disappearance", extrajudicial execution and torture cases perpetrated by the security forces since a pattern of systematic violations was first documented in 1983, the vast majority have not been thoroughly investigated and those responsible have not been brought to justice.

Amnesty International knows of only two judicial cases in the past 10 years in which members of the Peruvian army have been convicted and sentenced by military courts to significant prison terms for the deliberate and arbitrary killing of civilians. On 10 February 1993 the Supreme Council of Military Justice upheld the ten-year term of imprisonment imposed on army lieutenant Javier Bendezu Vargas, following the massacre of 15 peasants, including six children, in July 1991. The officer, together with six soldiers, had been charged with a series of crimes against the victims, all from the community of Santa Bárbara in the department of Huancavelica. However, Lieutenant Bendezu was absolved by the Supreme Council of Military Justice of the crime of aggravated homicide. Instead he was sentenced for the military crime of abuse of authority and having made false statements. In a separate case resolved on 26 March 1993, the Supreme Council of Military Justice was reported to have upheld the sentence of six years imprisonment imposed on former lieutenant Telmo Hurtado for the massacre of 69 peasants. The peasants were killed by the army in Accomarca, Ayacucho department, in August 1985.

The above judgements on lieutenants Bendezu and Hurtado are virtually unique in the past 10 years of extensive human rights violations by members of the armed forces. In thousands of other cases documented by Amnesty International in which there appeared to be evidence of the armed forces having violated human rights, the authorities have failed to conduct full and independent inquiries and have frequently not brought those responsible to justice.

The suspension of constitutional government

On 5 April 1992 President Fujimori announced the closure of Congress, the suspension of constitutional rule and the setting up of an emergency government. In a television broadcast to the nation the President explained that the measures he was announcing were necessary because, among other factors, Congress and the judiciary were

obstructing the government's attempts to effectively combat the armed opposition. The following day the Armed Forces Joint Command issued a communique fully supporting the measures announced by the President. Many political analysts in Peru and abroad reacted to the measures announced by the President, and the support given to them by the armed forces, as an indication that Peru was to be ruled unofficially by a combined civilian-military government.

The suspension of constitutional rule immediately put in further jeopardy the protection of human rights in Peru. For instance, the dissolution of Congress effectively put an official stop to the work of parliamentary commissions, including commissions with a human rights brief. Among the commissions so affected were the Justice and Human Rights Commissions of the Chamber of Deputies and of the Senate, and Special Commissions of Investigation charged with conducting inquiries into particular cases of gross human rights violations. These latter Commissions, with a mandate to inquire into several cases of alleged human rights violations, were in the process of compiling evidence and, in some cases, were about to publish their findings, when Congress was dissolved. The evidence, data and documents these Commissions had at their disposal were subsequently removed by the authorities under the emergency government. When the congressional buildings were eventually reopened in December 1992 the files pertaining to the cases under investigation were reported to have been found missing. The emergency measures taken by President Fujimori also halted the process initiated by Congress designed to repeal or modify counter-insurgency legislation issued by the executive in November 1991, and which critics claimed "militarized" Peruvian society. Congress had been attempting to strengthen the participation of civil society in the development of a new counter-insurgency strategy.

Between May and November 1992 President Fujimori and his Council of Ministers issued 11 anti-terrorism decree laws as part of the emergency government's new counter-insurgency measures. In the first of these decrees, which came into effect on 7 May 1992, the Government repealed a law originally passed on 26 April 1991 which, for the first time ever in the legal history of Peru, explicitly criminalized enforced disappearances. Two months later the Government reintroduced the law in a slightly modified form through Decree Law N° 25592 which came into effect on 2 July 1992.

Human rights since the reopening of Congress

In November 1992 elections were held which resulted in the establishment of the *Congreso Constituyente Democrático*, CCD, Democratic Constituent Congress. Two major opposition parties refused to participate in the elections. A majority of the seats in the new Congress were won by members of the political party *Nueva Mayoría-Cambio 90*, New Majority-Change 90, backed by President Fujimori. The new 80-member single chamber Congress, formally inaugurated on 30 December 1992, replaced the two-chamber Congress

closed by the President and his Council of Ministers the previous April. The CCD was charged with drafting a new Constitution and carrying out those legislative functions established in the 1979 Constitution. During its initial weeks, the new Congress established a number of commissions, including the *Comisión de Derechos Humanos*, Human Rights Commission.

In February 1993 the Government of Peru, in the context of claims to have re-established constitutional rule, sought to renegotiate agreements with the Government of the United States of America (USA) regarding economic aid to Peru. However, following publication of the USA's State Department 1992 report on human rights in Peru, the Government of the USA expressed concern about Peru's eligibility to receive economic aid given the country's poor human rights record. The reaction within Peru as to Peru's eligibility was to highlight a public debate about the issue of human rights violations by the security forces, the role of independent human rights organizations in Peru in disseminating internationally information about such violations, and the Government's success or otherwise in securing foreign economic aid.

On 23 February 1993, again in the context of the debate about human rights and economic aid to Peru, the newly-elected CCD approved a motion which stated that the Peruvian state does not have a policy of systematically violating human rights. The CCD also stated that it was committed to the investigation of past and future human rights violations, and expressed a hope that the judicial authorities would sanction the perpetrators.

On 2 April 1993 the president of the CCD's Human Rights Commission was reported in the newspaper *La República* to have stated before Congress that his Commission has 205 outstanding human rights violation cases to investigate. The report did not make clear whether these consisted solely of violations which occurred after Congress was closed in April 1992, or whether the Commission had also inherited cases being investigated by similar commissions under the previous parliament. In the context of this workload the CCD voted on 2 April 1993 to set up a *Comisión Especial Investigadora*, Special Commission of Inquiry, to investigate allegations that members of the army had abducted and killed the lecturer and nine students from La Cantuta University.

Amnesty International and the armed opposition

In 1980 the armed opposition group *Partido Comunista del Perú (Sendero Luminoso)*, PCP, Communist Party of Peru (Shining Path), initiated a campaign which has been sustained over the past 13 years. The campaign aims to overthrow the Peruvian state by violent means. In 1984 a second opposition group, the *Movimiento Revolucionario Túpac Amaru*, MRTA, Túpac Amaru Revolutionary Movement, also launched an armed campaign against the state. Since the launch of these campaigns and of the governments' counter-insurgency operations, political violence has proliferated throughout most of Peru.

The PCP, as part of its campaign, has carried out widespread and violent atrocities. These atrocities, including deliberate and arbitrary killings, sometimes after torture and mock trials, have risen consistently over the years. Thousands of its victims have been defenceless civilians not involved in the armed conflict. Police and military personnel whom it captured or who were incapacitated by wounds or surrendered have also been killed. There has also been an increase in the violent activities of the smaller MRTA. The MRTA has reportedly been responsible for the planting of a number of bombs in public places and for selective assassinations.

Amnesty International is fully aware of the extent of political violence, including extensive abuses by the armed opposition. The organization works within the framework of international law as it concerns the human rights obligations of governments and of principles derived from humanitarian law which **all parties** involved in internal armed conflict must respect. Amnesty International has repeatedly condemned the abuses of armed opposition groups responsible for the torture or deliberate and arbitrary killing of civilians not involved in the conflict and of members of the security forces who are *hors de combat*, and has made public its opposition to such abuses. Such action has included publicly condemning and opposing the deliberate and arbitrary killing of the 22 civilians who died as a result of the car bomb detonated in Lima by the PCP on 16 July 1992. It was this attack for which the army allegedly carried out a reprisal by abducting and killing the lecturer and nine students from La Cantuta University.