

PERU

@Army officer kills student with close-range shot in the back

Amnesty International is seriously concerned about the reported extrajudicial execution by an army officer of student **Víctor RAMÍREZ ARIAS**. The organization is also seriously concerned that, as a result of a judicial investigation into the killing having been initiated by a military tribunal, the full circumstances behind the death of Víctor Ramírez may never be made public, and that the officer may not be brought to justice before a court under civilian jurisdiction.

On 14 January 1994 Víctor Ramírez, a student from the Faculty of Administration at the Technical University of Callao, near Lima, the capital, was travelling home on a bus. As the bus approached his home neighbourhood he saw soldiers stopping people and asking them for their identity documents. Among those who had been stopped and ordered into the back of a military truck, Víctor Ramírez noticed his 17-year-old cousin, Manuel Alfredo Dextre Virhues.

Víctor Ramírez got off the bus, approached a non-commissioned officer in charge of the operation and, after inquiring as to the reason for his cousin's detention, requested that he be released. In response, the officer ordered Víctor Ramírez to leave. As he complied with the order, Víctor Ramírez was shot in the back by the officer. On 18 January 1994 the Information Office of the Army issued a communique which stated that a non-commissioned officer "... activated his regulation firearm, causing the death of the citizen Víctor Ramírez Arias, as a result of which [the officer] has been detained ..." in a military base in Lima.

On 27 January 1994 the National Directorate of Criminal Investigation of the Peruvian National Police issued a report, N° 056-IC-H-DDVC, on the death of Víctor Ramírez. The police report indicated that the officer claimed to have fired an automatic round of bullets into the air but that, on lowering his firearm, a bullet accidentally hit the victim. However, the report goes on to state that the officer's explanations "have been discarded", as a result of the forensic investigation carried out on the weapon. The police report stated that "it is evident the weapon was [only] activated to fire single shots, and not an automatic round, as the [officer] claimed...". The police also discarded the officer's version of the incident on the basis of a statement given to them by the victim's cousin, Manuel Dextre, who witnessed the shooting.

According to the police report, the officer had ordered Víctor Ramírez " to leave ... [but] on turning his back on him ... the non-commissioned officer pulled the trigger, hitting

him in the back with one shot from his semi-automatic pistol which was against the victim's back." The report pointed out that "the distance from which [V́ctor Raḿrez] was shot was ... less than half a metre (50 cms.)." The police report concluded that the officer was responsible for the crime of homicide.

Following submission of the report to a civilian public prosecutor, who in turn filed charges of homicide against the officer, a civilian examining judge opened an investigation into the case. As part of her investigations, the civilian judge wrote to the Commander General of the Second Military Region and a military judge in charge of the case, requesting that the officer report to the civilian court. However, by the end of April 1994 the request had apparently not been complied with.

Amnesty International has well founded fears that the judicial investigation by the military may never make public the full truth behind the allegations. The organization bases its fears on the obstacles put in the way of past investigations conducted into gross human rights violations by the military in Peru. These obstacles invariably have had the ultimate effect of preventing the full facts surrounding gross human rights violations becoming publicly known, and of preventing those responsible from being brought to justice before courts under civilian jurisdiction.

BACKGROUND

President Alberto Fujimori and his government assumed power on 28 July 1990. The government inherited a legacy of gross human rights violations dating back to January 1983, including thousands of cases of "disappearances" and extrajudicial executions. The President has repeatedly stated that his government is pursuing a policy of respect for human rights. However, between 28 July 1990 and 30 April 1994, Amnesty International has documented at least 600 cases of reported "disappearance" and 260 extrajudicial executions. The vast majority of these cases have never been fully investigated, and those responsible have not been brought to justice.

In some exceptional cases, judicial investigations are conducted under the jurisdiction of both civilian and military courts. The fact that the killing of V́ctor Raḿrez outlined above is simultaneously being investigated under civilian and military jurisdictions, means that the Supreme Court of Justice may have to rule as to whether a military or civilian court will hear the case against the accused officer.

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, issue a final sentence, and declare the case closed. In such an event, the Supreme Court of Justice, when it comes to rule on the issue of jurisdiction, asserts the case cannot be heard under civilian jurisdiction because it has already been heard by a military court.

The last occasion on which the Supreme Court of Justice decided in favour of a military tribunal handling a case in which members of the army were accused of human rights violations, was in February 1994 when it ruled on the La Cantuta case. The case concerned the proven abduction and extrajudicial execution of a lecturer and nine students from La Cantuta University by members of the Army Intelligence Service, in July 1992. Despite overwhelming and compelling legal arguments by Peruvian and international human rights defenders and jurists that the case should be heard under the jurisdiction of a civilian court, the Supreme Court of Justice ruled that the case be heard before a military tribunal¹.

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 1994 remain unresolved, and those responsible unpunished.

Human rights violations in Peru occur in the context of the government's counter-insurgency operations directed against the clandestine armed opposition groups *Partido Comunista del Perú*, (*Sendero Luminoso*), PCP, Communist Party of Peru, (Shining Path) and the *Movimiento Revolucionario Túpac Amaru*, MRTA, Túpac Amaru Revolutionary Movement. The PCP and the MRTA have been carrying out armed attacks since 1980 and 1984 respectively.

Amnesty International cannot stress strongly enough the concern with which it views human rights abuses perpetrated by the armed opposition in Peru. These abuses, by way of a clear abrogation of the right to life, include the PCP and the MRTA arbitrarily and deliberately killing defenceless civilians and members of the security forces who have fallen injured, been taken captive, or surrendered. The abuses also include the torture of captives and the taking of hostages.

¹ See Peru: Army officers charged with murdering La Cantuta University lecturer and students, AI Index: AMR 46/01/94, January 1994; Peru: La Cantuta case to be heard by military tribunal, AI Index AMR 46/WU 01/1994, February 1994; and Peru: La Cantuta killings and other human rights violations not yet fully investigated, AI Index: AMR 46/03/94, March 1994.

The vast majority of human rights abuses by the armed opposition in Peru are perpetrated by the PCP. Despite government claims that the PCP is being defeated, and that many rural areas, and urban shanty-towns in and around Lima and elsewhere, are being successfully "pacified", reports of armed attacks by the PCP are still frequent. Many of these attacks involve gross human rights abuses. For example, on 15 April 1994 **Carlos LAVALLE GONZALES**, a nationally recognized middle-weight boxer and community activist who made publicly known his opposition to the PCP's efforts to control the shanty-town in which he lived with his family, was reported to have been gunned down by four members of the PCP. His killing, in the Raucana shanty-town on the outskirts of Lima, was said to be part of a campaign of threats and intimidation by members of the PCP against community leaders attempting to peacefully resolve problems of land tenancy in the neighbourhood. Another recent report of PCP abuses against civilians include the unjustifiable slaying with machetes, knives and shotguns, on 16 April 1994, of **18 men, women and children** from the hamlets of Monterrico and Chiriari, near Mazamari, in the department of Junín. Amnesty International unequivocally condemns these abuses with all the moral force that it can command.