

# PERU

## @Military officers may face imprisonment as prisoners of conscience

Retired army generals Walter Ledesma Rebaza and Carlos Mauricio Agurto, and retired navy captain Luis Mellet Castillo, may face long-term imprisonment as prisoners of conscience for having publicly criticized Peru's military operations during the recent armed conflict with Ecuador. If brought to trial and convicted, the officers face a maximum imprisonment of 20 years.

General Walter Ledesma and Captain Luis Mellet have reportedly been under military detention since 20 and 26 April 1995 respectively. Amnesty International believes them to be prisoners of conscience, and is calling for their immediate and unconditional release. By 4 May 1995 General Carlos Mauricio apparently has not been detained. In the event of his detention, Amnesty International would also consider him to be a prisoner of conscience.

According to a communique issued on 25 April by the *Oficina de Relaciones Públicas del Consejo Supremo de Justicia Militar*, Public Relations Office of the Supreme Council of Military Justice, all three officers are under judicial investigation by a military court for offences which are included in Peru's *Código de Justicia Militar*, Code of Military Justice. General Walter Ledesma is being investigated for the "*delito de ultraje a la Nación*", "crime of insult to the Nation"; General Carlos Mauricio for the "*delitos de infidencia y ultraje a la Nación*", "crimes of disloyalty and of insult to the Nation"; and Captain Luis Mellet for the "*delito de infidencia*", "crime of disloyalty".

The Supreme Council of Military Justice has stated that opening a judicial investigation is 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 face contravene the right to freedom of expression enshrined in the Constitution of Peru.

The *Coordinadora Nacional de Derechos Humanos*, CNDDHH, a Peruvian umbrella organization bringing together some 40 independent human rights organizations, in a press statement released on 27 April, called for the immediate release of General Walter Ledesma and Captain Luis Mellet. The CNDDHH also called for the judicial proceedings in relation to General Carlos Mauricio to be dropped. In the statement 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. In addition the CNDDHH made reference to article 12 of the *Ley de Situación Militar*, Law of Military Situation. According to the CNDDHH, article 12 of the Law of Military Situation 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.

## **BACKGROUND INFORMATION**

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 April a permanent truce continued to be negotiated, in collaboration with the observation and participation of regional foreign powers, including 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.

**KEYWORDS:** PRISONERS OF CONSCIENCE / CENSORSHIP / MILITARY AS VICTIMS / RETIRED PEOPLE / ARMED CONFLICT /