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ACTION ARA-01

INFO · LOG-00	ACDA-17	AID-01	AMAD-01	CIAE-00	C-01	OASY-00
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JUSE-00	LAB-04	L-03	ADS-00	NSAE-00	NSCE-00	OIC-02
OMB-01	PA-01	PM-02	PRS-01	P-01	RPCS-01	SIL-00
SNP-00	SP-00	SR-00	SS-00	STR-17	TRSE-00	T-00
USIE-00	RPE-01	/087W				

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P 161824Z MAR 93
FM AMEMBASSY LIMA
TO SECSTATE WASHDC PRIORITY 6706
INFO AMEMBASSY BOGOTA
AMEMBASSY CARACAS
AMEMBASSY LA PAZ
AMEMBASSY QUITO
USCINCSO QUARRY HEIGHTS PM

RELEASED IN PART
1.5(D), B1

[REDACTED] SECTION 01 OF 03 LIMA 02972

USCINCSO ALSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: KJUS, PHUM, PGOV, PE
SUBJECT: FURTHER POLITICIZATION OF PERU'S
JUDICIARY SYSTEM?

REF: STATE 72024 (NOTAL)

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1. (C) SUMMARY: IN A VOTE STRICTLY ALONG PARTY
LINES, THE CCD CREATED AN "HONOR TRIBUNAL" TO
APPOINT JUDGES AND PROSECUTORS TO FILL IMPORTANT
POSITIONS IN THE JUDICIAL BRANCH AND THE PUBLIC
MINISTRY. THE TRIBUNAL'S FIVE MEMBERS WILL BE
DESIGNATED AND OVERSEEN BY THE CCD'S JUSTICE
COMMITTEE. CCD PRESIDENT YOSHIYAMA INSISTED TO
CHARGE THAT "QUALITY" JURISTS WILL BE APPOINTED
TO THE TRIBUNAL AND THE INTENT IS TO HAVE A
TRULY INDEPENDENT JUDICIARY. OPPOSITION CCD
MEMBERS AND A HUMAN RIGHTS LEADER HAVE CRITICIZED

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UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: SAM A. MOSKOWITZ
DATE/CASE ID: 15 JUN 2001 200101053

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THE MEASURE AS A POLITICIZATION OF THE JUDICIAL BRANCH. ALTHOUGH THE MEASURE MOVES THE POWER OF JUDICIAL APPOINTMENTS FROM THE EXECUTIVE TO THE LEGISLATIVE BRANCH, IT SEEMS UNLIKELY THAT FUJIMORI'S CONTROL OVER DESIGNATIONS WILL DIMINISH. MUCH WILL DEPEND ON WHETHER "QUALITY" JURISTS ARE APPOINTED TO THE NEW TRIBUNAL, AS YOSHIYAMA PROMISED US. END SUMMARY.

"HONOR TRIBUNAL" TO APPOINT JUSTICE OFFICIALS

2. (U) FOLLOWING THE MOST HEATED PARLIAMENTARY DEBATE SO FAR, THE CONSTITUENT CONGRESS (CCD) INSTITUTED MARCH 12 AN "HONOR TRIBUNAL" TO NAME AND RATIFY JUDICIAL BRANCH JUDGES AND PUBLIC MINISTRY PROSECUTORS. THE BILL PASSED BY A VOTE OF 43-26. THOSE WHO VOTED FOR THE CREATION OF THE TRIBUNAL WERE ALL FROM THE GOVERNMENT COALITION AND ONE MEMBER OF A MINOR PARTY; THOSE

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 WHO VOTED AGAINST IT WERE ENTIRELY OPPOSITION MEMBERS.

3. (U) THE HONOR TRIBUNAL WILL BE COMPOSED OF FIVE INDIVIDUALS APPOINTED BY THE CCD'S JUSTICE COMMITTEE. ALL OF ITS DECISIONS WILL BE REVIEWED BY THE JUSTICE COMMITTEE. THE TRIBUNAL WILL CHOOSE (SUPPOSEDLY THROUGH AN EXAM PROCESS, THOUGH THIS REMAINS TO BE DETERMINED) SUPREME COURT JUSTICES; JUSTICE DEPARTMENT PROSECUTORS (ASSISTANT ATTORNEYS-GENERAL); SUPERIOR COURT JUDGES; CIRCUIT (FIRST-LEVEL) COURT JUDGES; PROVISIONAL PROSECUTORS; AND JUSTICES OF THE PEACE. THE APPOINTMENTS OF SUPREME COURT JUSTICES AND ASSISTANT ATTORNEYS-GENERAL WILL BE CONFIRMED BY A SIMPLE MAJORITY VOTE OF THE CCD; ALL OTHER APPOINTMENTS WILL BE RATIFIED BY ONLY THE JUSTICE COMMITTEE. THE TRIBUNAL'S FIRST ORDER OF BUSINESS WILL BE TO EXAMINE THE CASES OF HUNDREDS OF JUDICIAL BRANCH AND PUBLIC MINISTRY EMPLOYEES WHO WERE DISMISSED AFTER PRESIDENT FUJIMORI'S COUP OF APRIL 5, 1992. THE TRIBUNAL WILL CEASE TO FUNCTION WHEN PERU'S NEW CONSTITUTION ENTERS INTO EFFECT.

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"WE ARE LOOKING FOR QUALITY"

4. (C) CCD PRESIDENT JAIME YOSHIYAMA TELEPHONED
CHARGE "URGENTLY" MARCH 15 TO DISCUSS THE HONOR
TRIBUNAL. HE SAID THAT IT WILL BE CLEAR FROM
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THE QUALITY OF THE JURISTS APPOINTED TO THE
TRIBUNAL THAT THE GOVERNMENT WANTS IT TO BE A
MECHANISM TO CREATE A BETTER JUDICIARY WITH TRUE
INDEPENDENCE. HE NAMED TWO OF THE INTENDED
APPOINTEES, ONE OF WHOM IS A REPECTED LAW
PROFESSOR AT CATHOLIC UNIVERSITY. YOSHIYAMA'S
MAIN URGENCY IN CALLING, HOWEVER, WAS TO SEEK
USG ASSISTANCE TO MAKE THE HONOR TRIBUNAL AN
EFFECTIVE INSTRUMENT. HE SAID THE TASK FACED IS
GREAT -- THE TRIBUNAL MUST EVALUATE 600 JUDGES
-- AND OUTSIDE HELP WILL BE NEEDED.

OPPOSITION BLASTS LACK OF INDEPENDENT JUDICIARY

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ACTION ARA-01

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	JUSE-00	LAB-04	L-03	ADS-00	NSAE-00	NSCE-00	OIC-02
	OMB-01	PA-01	PM-02	PRS-01	P-01	RPCS-01	SIL-00
	SNP-00	SP-00	SR-00	SS-00	STR-17	TRSE-00	T-00
	USIE-00	RPE-01	/087W				

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P 161824Z MAR 93
FM AMEMBASSY LIMA
TO SECSTATE WASHDC PRIORITY 6707
INFO AMEMBASSY BOGOTA
AMEMBASSY CARACAS
AMEMBASSY LA PAZ
AMEMBASSY QUITO

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USCINCSO QUARRY HEIGHTS PM

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USCINCSO ALSO FOR POLAD

E.O. 12356: DECL:OADR
 TAGS: KJUS, PHUM, PGOV, PE
 SUBJECT: FURTHER POLITICIZATION OF PERU'S

5. (U) THE OPPOSITION FOUGHT THE PROPOSAL BY OFFERING ONE OF ITS OWN. THE OPPOSITION SUGGESTED THAT A NATIONAL COUNCIL BE FORMED,

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 WHICH WOULD INCLUDE POLITICIANS, BUT ALSO THE CURRENT AND FORMER DEANS OF THE LIMA LAWYER'S ASSOCIATION (COLEGIO DE ABOGADOS), DISTINGUISHED MEMBERS OF THE COUNTRY'S LAW FACULTIES, AND LEGAL EXPERTS FROM HUMAN RIGHTS ORGANIZATIONS AND THE GENERAL PUBLIC. THE COUNCIL'S DECISIONS AND APPOINTMENTS WOULD HAVE HAD TO BE CONFIRMED BY A TWO-THIRDS MAJORITY OF THE CCD, WHICH WOULD HAVE FORCED THE GOVERNMENT COALITION PARTIES TO REACH A CONSENSUS WITH THE OPPOSITION. IN THE END, HOWEVER, THE GOVERNMENT COALITION REJECTED ANY CHANGES TO ITS ORIGINAL PROPOSAL.

6. (U) OUTRAGED OPPOSITION MEMBERS THEN ISSUED A MINORITY STATEMENT CONDEMNING THE VOTE AND DENOUNCING THE "SUBMISSIVE ATTITUDE OF THE MAJORITY" TOWARD PRESIDENT FUJIMORI, ALLEGING THAT THE MOVE WILL ALLOW HIM TO CONTINUE CONTROLLING JUDICIAL APPOINTMENTS. "THE IMPORTANCE OF AN AUTONOMOUS AND UPRIGHT JUDICIAL BRANCH AND PUBLIC MINISTRY FOR THE GOOD OF THE COUNTRY OBLIGES US TO LAMENT THAT THE OPPORTUNITY TO SHOW THAT WE ARE ON THE ROAD TO AN AUTHENTIC DIVISION OF POWERS HAS BEEN LOST," THE STATEMENT READS.

7. (U) ANTERO FLORES ARAOZ OF THE POPULAR CHRISTIAN PARTY DRAFTED THE MINORITY STATEMENT. HE COMPLAINED TO THE PRESS MARCH 12 THAT THE TRIBUNAL WILL BE APPOINTED AND OVERSEEN BY A JUSTICE COMMITTEE RUN BY THE GOVERNMENT MAJORITY,

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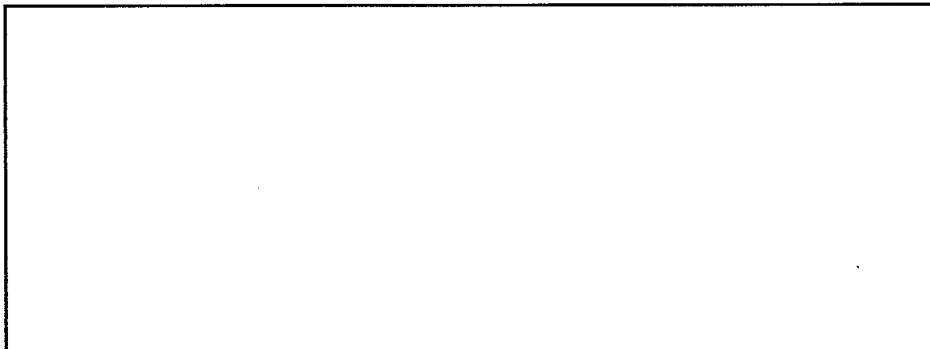
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WHICH WILL ALWAYS VOTE THE WAY FUJIMORI WANTS IT
TO. IN ADDITION, HE NOTED, RATIFICATIONS OF
HIGH-LEVEL JUSTICE OFFICIALS WILL BE DONE BY A
SIMPLE MAJORITY OF THE CCD, WHICH MEANS THE
GOVERNMENT COALITION WILL RUBBER STAMP EVERY
COMMITTEE RECOMMENDATION. INSTEAD OF ENSURING
THE INDEPENDENCE OF THE JUDICIARY, FLORES RAILED,
AS FUJIMORI AND HIS FOLLOWERS HAVE PROMISED,
"THEY ARE DOING THE EXACT OPPOSITE. THEY ARE
MAKING IT MORE DEPENDENT THAN EVER." FLORES
ADDED FACETIOUSLY THAT HE WOULD NOT BE SURPRISED
IF CONTROVERSIAL PRESIDENTIAL ADVISER VLADIMIRO
MONTESINOS WERE APPOINTED TO THE HONOR TRIBUNAL.



B1, 1.5(D)

9. (C) COMMENT: WHETHER THE NEW TRIBUNAL
IMPROVES THE INEFFICIENT, CORRUPT AND DEMORALIZED
JUDICIARY DEPENDS ON THE QUALITY OF ITS MEMBERS
AND OF THE DIRECTION FROM THE PRESIDENT. THE
OPPOSITION'S PROPOSAL MIGHT HAVE DONE BETTER IN

[REDACTED]
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TERMS OF VETTING JUDGES AND FISCALES; WE ARE NOT
SURPRISED, HOWEVER, THAT THE GOP DID NOT GIVE THE
OPPOSITION A VETO. AT THE MARGINS, MEMBERS OF
THE NEW COMMITTEE THAT OVERSEES JUDICIAL
APPOINTMENTS MAY HAVE SOME INDEPENDENCE. IT
WOULD BE SURPRISING, NEVERTHELESS, IF THE JUDGES
AND PROSECUTORS APPOINTED WERE NOT THOSE THAT
FUJIMORI WANTED. ALTHOUGH THE "HONOR TRIBUNAL"

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WILL BE DISSOLVED ONCE THE CONSTITUTION IS IN PLACE, ITS APPOINTMENTS TO THE JUDICIAL BRANCH AND THE PUBLIC MINISTRY WILL BE CONSIDERED "PERMANENT": 14 OF 18 SUPREME COURT JUSTICES, 100 PERCENT OF PUBLIC MINISTRY PROSECUTORS, 52 PERCENT OF SUPERIOR COURT JUDGES IN LIMA, AND SO ON. ALTHOUGH FUJIMORI WILL NOT DIRECTLY NAME THESE OFFICIALS, HE WILL LEAVE HIS MARK ON

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	OMB-01	PA-01	PM-02	PRS-01	P-01	RPCS-01	SIL-00
	SNP-00	SP-00	SR-00	SS-00	STR-17	TRSE-00	T-00
	USIE-00	RPE-01	(AS-01	ADS-00) /087W		

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P 161824Z MAR 93
FM AMEMBASSY LIMA
TO SECSTATE WASHDC PRIORITY 6708
INFO AMEMBASSY BOGOTA
AMEMBASSY CARACAS
AMEMBASSY LA PAZ
AMEMBASSY QUITO
USCINCSO QUARRY HEIGHTS PM

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SUBJECT: FURTHER POLITICIZATION OF PERU'S

PERU'S JUSTICE SYSTEM AS LONG AS THE NEW
CONSTITUTION LASTS.
BRAYSHAW

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