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R 182032Z JUN 93
FM AMEMBASSY LIMA
TO SECSTATE WASHDC 9259
INFO AMEMBASSY BOGOTA
AMEMBASSY BUENOS AIRES
AMEMBASSY CARACAS
AMEMBASSY LA PAZ
AMEMBASSY OTTAWA
AMEMBASSY QUITO
AMEMBASSY TOKYO
USMISSION GENEVA
DIA WASHDC
USCINCSO QUARRY HEIGHTS PM

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E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, PE

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SUBJECT: STATUS OF THE THREE INVESTIGATIONS
INTO THE LA CANTUTA DISAPPEARANCES

REF: A. LIMA 6595, B. LIMA 6328,
C. LIMA 6842 (NOTAL)

1. (C) SUMMARY AND INTRODUCTION: THREE SEPARATE
OFFICIAL INVESTIGATIONS INTO THE LA CANTUTA
DISAPPEARANCES ARE UNDERWAY IN PERU. THE SPECIAL
CONGRESSIONAL COMMITTEE LOOKING AT THE CASE WINDS
UP ITS WORK THIS WEEK WITH A REPORT DUE TO BE
RELEASED JUNE 18. BOTH THE CONGRESSIONAL AND

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UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: OSCAR J. OLSON
DATE/CASE ID: 2 AUG 2001 200003853

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THE PUBLIC MINISTRY INVESTIGATION HAVE RUN INTO A BRICK WALL: THE MILITARY REFUSE TO LET ANY ACTIVE-DUTY SUSPECTS/WITNESSES BE INTERROGATED. THE MILITARY COURT'S OWN INVESTIGATION IS SHROUDED IN SECRECY. END SUMMARY AND INTRODUCTION.

CONGRESSIONAL INVESTIGATION WRAPPING UP

2. (U) THE SPECIAL INVESTIGATIVE COMMITTEE OF THE CONSTITUENT CONGRESS (CCD) IS SCHEDULED TO ISSUE ITS REPORT ON THE LA CANTUTA ABDUCTIONS BEFORE THE END OF THIS WEEK. AS NOTED REFTEL A, MEMBERS HAVE SAID THERE WILL BE BOTH A MAJORITY AND A MINORITY OPINION. AT ONE POINT, CHAIRMAN ROGER CACERES SUGGESTED THAT HE MIGHT ISSUE HIS OWN, INDEPENDENT, REPORT AS WELL. CCD PRESIDENT JAIME YOSHIYAMA TOLD A TELEVISION REPORTER JUNE [REDACTED]
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 16 THAT HE WAS CONFIDENT THAT THE INVESTIGATION WAS A SERIOUS ONE AND THAT JUSTICE WOULD BE DONE.

3. (U) THE REPORT WAS SUPPOSED TO BE PRESENTED TO THE CCD'S JUNE 18 PLENARY SESSION, BUT THE COMMITTEE POSTPONED ITS RELEASE AT LEAST UNTIL JUNE 21 SO THAT ITS MEMBERS COULD TRY TO REACH A CONSENSUS OPINION. CACERES TOLD THE PRESS THAT AN AGREEMENT HAD BEEN REACHED THAT THE ARMY AS AN INSTITUTION DID NOT PARTICIPATE IN THE INCIDENT, AND THAT, IF THERE HAD BEEN AN INCURSION INTO THE UNIVERSITY, IT HAD BEEN DONE BY "ELEMENTS WHO ACTED ON THEIR OWN INITIATIVE OR ON IRREGULAR ORDERS." HE ALSO NOTED JUNE 17 THAT THE REPORT WOULD CONTAIN RECOMMENDATIONS FOR LEGISLATION THAT WOULD HELP KEEP SIMILAR INCIDENTS FROM OCCURRING IN THE FUTURE.

4. (U) PRESIDENTIAL SECURITY ADVISER VLADIMIRO MONTESINOS DID NOT TESTIFY, DESPITE A COMMITTEE SUMMONS. EVEN THE PRO-GOVERNMENT NEWSPAPER "EXPRESO" CALLED ON PRESIDENT FUJIMORI TO MAKE MONTESINOS APPEAR BEFORE THE COMMITTEE. HOWEVER, BOTH THE NATIONAL INTELLIGENCE SERVICE AND THE ARMY COMMAND (ON BEHALF OF THE MILITARY COURT)

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DENIED PERMISSION. A MEMO FROM NOMINAL NATIONAL INTELLIGENCE SERVICE HEAD GENERAL JULIO SALAZAR TO CCD SPECIAL COMMITTEE CHAIRMAN ROGER CACERES STATED THAT AN APPEARANCE BY MONTESINOS "WOULD INTERFERE WITH THE PERFORMANCE OF HIS FUNCTIONS."

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5. (C) CACERES HAS COMPLAINED BOTH PUBLICLY AND PRIVATELY THAT THE COMMITTEE HAS NOT BEEN ABLE TO GET TO THE BOTTOM OF THE LA CANTUTA DISAPPEARANCES BECAUSE IT HAS NEVER RECEIVED THE COOPERATION OF THE MILITARY, WHICH CONTROLLED THE UNIVERSITY AT THE TIME OF THE ABDUCTIONS. A STAFFER [REDACTED]

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[REDACTED] TOLD POLOFF THAT THE COMMITTEE HAD BEEN UNABLE TO REACH A UNANIMOUS CONCLUSION. WHILE THERE IS A LOT OF CIRCUMSTANTIAL EVIDENCE LINKING THE MILITARY TO THE KIDNAPPINGS, THE COMMITTEE HAS NOT HAD ENOUGH ACCESS TO MILITARY WITNESSES/PARTICIPANTS TO ESTABLISH A CHAIN OF EVIDENCE. NONETHELESS, WE UNDERSTAND THE

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R 182032Z JUN 93
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AMEMBASSY OTTAWA
 AMEMBASSY QUITO
 AMEMBASSY TOKYO
 USMISSION GENEVA
 DIA WAS2CL1QHLBAAA/USCINCSO QUARRY HEIGHTS PM

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 OPPOSITION REPORT WILL ASSERT THAT THE ARMY IS
 RESPONSIBLE BECAUSE IT CONTROLLED THE UNIVERSITY
 CAMPUS THE NIGHT OF THE DISAPPEARANCES. (X)

PUBLIC MINISTRY INVESTIGATOR'S HANDS TIED

6. (U) THE SPECIAL PROSECUTOR APPOINTED BY PERU'S ATTORNEY GENERAL TO INVESTIGATE THE DISAPPEARANCES HAS REPORTEDLY HAD EVEN LESS LUCK THAN THE CCD. ACCORDING TO A PRESS REPORT, GUSTAVO QUIROZ VALLEJOS WAS TOLD BY THE DEFENSE MINISTRY THAT HE WOULD NOT BE ABLE TO INTERVIEW ANY MILITARY PERSONNEL ON DUTY AT LA CANTUTA THE NIGHT OF THE DISAPPEARANCES WITHOUT PRIOR PERMISSION FROM THE SUPREME COUNCIL OF MILITARY JUSTICE (CSJM). THE PUBLIC MINISTRY HAS ARGUED THAT IT TECHNICALLY IS THE AUTONOMOUS ORGAN OF THE GOVERNMENT THAT SHOULD BE CARRYING OUT THE INVESTIGATION AND SHOULD NOT HAVE TO REQUEST THE MILITARY COURT'S PERMISSION TO INTERROGATE ANYONE.

MILITARY INVESTIGATION SHROUDED IN SECRECY

7. (U) EXCEPT FOR THE OCCASIONAL PRESS RELEASE BY THE CSJM'S PUBLIC RELATIONS OFFICE, ALMOST NO INFORMATION HAS BEEN MADE PUBLIC ABOUT THE MILITARY COURT'S INVESTIGATION INTO THE LA CANTUTA INCIDENT. THE MOST RECENT WITNESS TO TESTIFY BEFORE THE INVESTIGATING JUDGE WAS THE

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 EDITOR OF THE WEEKLY NEWS MAGAZINE "CARETAS,"
 ENRIQUE ZILERI. ACCORDING TO A PRESS REPORT,
 THE JUDGE, MARCO HUERTA, INTERROGATED ZILERI FOR
 A TOTAL OF TEN MINUTES, DURING WHICH HE SEEMED
 CONCERNED MAINLY WITH FINDING OUT HOW "CARETAS"
 HAD OBTAINED CERTAIN DOCUMENTS THAT THE MILITARY
 HAS ALREADY DECLARED FALSE.

8. (C) THERE IS NO CLEAR PROCEDURE THAT GOVERNS
 THIS PHASE OF THE MILITARY COURT'S HANDLING OF
 THE CASE, ACCORDING TO HUMAN RIGHTS CONTACTS AND
 AN ARMY COLONEL IN THE JOINT COMMAND
 HEADQUARTERS. THE CASE IS TECHNICALLY IN THE
 INVESTIGATIVE PHASE. THERE IS NO TIME FRAME
 DURING WHICH THE CSJM MUST COMPLETE ITS
 INVESTIGATION, THE COLONEL TOLD US. IT IS UP TO
 THE INVESTIGATIVE JUDGE AND PROSECUTOR TO
 DETERMINE WHETHER TO PROCEED WITH INDICTMENTS; IF
 ANY MILITARY PERSONNEL WERE COURT-MARTIALLED, THE
 TRIAL WOULD LIKEWISE BE CLOSED TO THE PUBLIC.
 WHEN PRESSED, THE COLONEL REFUSED TO COMMENT ON
 THE SUBSTANCE OF THE CASE ITSELF OR ON ANY
 REMARKS MADE ABOUT THE CASE BY ARMY COMMANDER/
 JOINT COMMAND CHAIRMAN GEN. NICOLAS HERMOZA.

9. (U) THE MOST RECENT CRITICISM OF THE CSJM
 INVESTIGATION COMES FROM THE MEDIA'S DISCOVERY
 THAT, BESIDES HUERTA, THE CASE IS ALSO BEING
 HANDLED BY AIR FORCE COMMANDER JOSE BALAREZO LA
 RIVA. IN 1987, WHEN BALAREZO WAS A MAJOR
 WORKING AS A MILITARY LAWYER AT THE CSJM, HE

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 REPORTEDLY HELPED GAIN THE ACQUITTALS OF
 SEVERAL POLICE OFFICERS BEING TRIED FOR DRUG
 TRAFFICKING. THE DEFENSE ATTORNEY IN THAT CASE
 WAS VLADIMIRO MONTESINOS. ACCORDING TO PRESS
 REPORTS, BOTH BALAREZO AND MONTESINOS AT THAT
 TIME SHARED THE SAME ADDRESS -- A PRIVATE OFFICE
 IN LIMA -- FOR THEIR OFFICIAL CORRESPONDENCE.

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10. (C) COMMENT: THE MILITARY HAS BEEN ABLE TO CIRCUMVENT THE NORMAL JUDICIAL PROCESS BY NOT PERMITTING ANY GOVERNMENT BRANCH OR MINISTRY TO QUESTION ITS PERSONNEL ON THE EVENTS OF JULY 18, 1992, WHEN NINE STUDENTS AND A PROFESSOR DISAPPEARED FROM THE ARMY-CONTROLLED LA CANTUTA UNIVERSITY. THE CSJM'S ARGUMENT HAS BEEN THAT THE MILITARY COURT HAS EXCLUSIVE JURISDICTION PRESUMABLY BECAUSE MILITARY PERSONNEL ARE ACCUSED OF BEING INVOLVED (THOUGH NO CHARGES

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HAVE BEEN BROUGHT AGAINST ANY INDIVIDUAL). THE
MILITARY COURT PROCEEDING IS TAKING PLACE WITHIN
THE CONTEXT OF A DECLARATION BY ARMY COMMANDER
HERMOZA THAT AN ADMINISTRATIVE INVESTIGATION BY
THE ARMY REVEALED THAT NO MILITARY PERSONNEL HAD
PARTICIPATED IN THE INCIDENT.

11. (C) IN ADDITION TO QUESTIONS OF COMMAND
INFLUENCE, THE SECRECY OF THE PROCEEDINGS RAISES
ADDITIONAL QUESTIONS. NEITHER THE REST OF THE
GOVERNMENT NOR THE PUBLIC HAVE ANY KNOWLEDGE OF
THE CSJM PROCESS. FOR INSTANCE, WHILE THE
CSJM'S PUBLIC AFFAIRS OFFICE HAS ACKNOWLEDGED
THAT MONTESINOS RESPONDED TO QUESTIONING, IT HAS
NOT RELEASED HIS TESTIMONY. AT THIS POINT, THE
ONLY THING CERTAIN ABOUT THE THREE INVESTIGATIONS
INTO "LA CANTUTA" IS THAT THEY ARE RAISING MORE
QUESTIONS THAN THEY ARE ANSWERING.
BRAYSHAW

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