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SUBJECT: DRAFT 1999 HUMAN RIGHTS REPORT FOR PERU

1. FOLLOWING IS THE DRAFT 1999 COUNTRY HUMAN RIGHTS REPORT FOR PERU.
2. (SBU) 1998 DEPARTMENT OF STATE  
HUMAN RIGHTS REPORT ON PERU

PERU IS A MULTIPARTY REPUBLIC WITH AN OVERWHELMINGLY DOMINANT EXECUTIVE BRANCH. UNDER THE 1993 CONSTITUTION, PRESIDENT ALBERTO FUJIMORI WON A SECOND FIVE-YEAR TERM IN 1995, AND HIS PARTY ENJOYS A COMFORTABLE MAJORITY IN THE UNICAMERAL CONGRESS. THE CONSTITUTION ESTABLISHED AN INDEPENDENT JUDICIARY, BUT IN PRACTICE CERTAIN SECTORS OF THE JUDICIAL SYSTEM ARE INEFFICIENT, CONTROLLED BY THE EXECUTIVE BRANCH, AND SUSCEPTIBLE TO IMPROPER PRIVATE INFLUENCE. THE CONSTITUTIONAL TRIBUNAL HAS NOT FUNCTIONED FULLY SINCE 1996, WHEN CONGRESS REMOVED THREE OF ITS MEMBERS FOR OPPOSING A LAW THAT PERMITTED PRESIDENT FUJIMORI TO RUN

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FOR A THIRD CONSECUTIVE TERM. ON JULY 8, PERU WITHDREW FROM THE JURISDICTION OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS (IACHR) AFTER THE COURT DETERMINED THAT PERU HAD FAILED TO PROVIDE DUE PROCESS IN THE CASE OF FOUR CHILEAN TERRORISTS CONVICTED BY A MILITARY TRIBUNAL. THE IACHR RULED SEPTEMBER 28 THAT PERU COULD NOT WITHDRAW IMMEDIATELY FROM THE COURT'S JURISDICTION WITHOUT RENOUNCING THE INTER-AMERICAN CONVENTION ON HUMAN RIGHTS. PERU RESPONDED IT WOULD NOT COMPLY WITH FUTURE INTER-AMERICAN COURT DECISIONS IN SEVERAL PENDING CASES, INCLUDING SOME FILED BY PERUVIAN CITIZENS FOR REASONS UNRELATED TO TERRORISM. THIS DECISION HAS EFFECTIVELY RESTRICTED A CONSTITUTIONAL RIGHT OF PERUVIANS TO SEEK REDRESS IN THE HEMISPHERE'S PRE-EMINENT INTERNATIONAL TRIBUNAL.

THE POLICE AND MILITARY SHARE RESPONSIBILITY FOR INTERNAL SECURITY; THE NATIONAL INTELLIGENCE SERVICE ALSO PLAYS A ROLE IN ANTICRIME EFFORTS. THE CAPTURE OR DEATH OF SEVERAL REMAINING TERRORIST LEADERS MARKED CONTINUING PROGRESS IN ELIMINATING THE ONCE GREAT THREAT POSED BY THE SENDERO LUMINOSO (SHINING PATH) AND TUPAC AMARU REVOLUTIONARY MOVEMENT (MRTA) TERRORIST GROUPS, WHO SINCE 1990 COMMITTED THE GREAT MAJORITY OF KILLINGS AND OTHER EGREGIOUS ABUSES. THE GOVERNMENT FURTHER REDUCED THE EXTENT OF ITS EMERGENCY ZONES. THEY NOW COVER LESS THAN SIX PERCENT OF PERU'S TERRITORY AND AFFECT LESS THAN FIVE PERCENT OF THE POPULATION. WITHIN THESE ZONES, CERTAIN CONSTITUTIONAL PROTECTIONS ARE SUSPENDED. IN THE REST OF THE COUNTRY, CIVILIAN AUTHORITIES GENERALLY MAINTAIN EFFECTIVE CONTROL OF THE SECURITY FORCES. PARTIALLY IN RESPONSE TO COMPLAINTS ABOUT FORCED CONSCRIPTION OF YOUNG MEN, INCLUDING MINORS, PERU ADOPTED LEGISLATION ENDING COMPULSORY MILITARY SERVICE THAT WENT INTO EFFECT IN JANUARY 2000. NEVERTHELESS, THE MILITARY AND POLICE WERE RESPONSIBLE FOR SERIOUS HUMAN RIGHTS ABUSES.

SINCE 1990, THE GOVERNMENT IMPLEMENTED MAJOR ECONOMIC REFORMS, TRANSFORMING A HEAVILY REGULATED ECONOMY TO A DYNAMIC, MARKET-ORIENTED ONE. THE GOVERNMENT ELIMINATED CONTROLS ON CAPITAL FLOWS, PRICES AND TRADE. IT PRIVATIZED MOST STATE ENTERPRISES BUT DID NOT MEET ITS TARGET OF SELLING THOSE REMAINING BY THE END OF 1999. INFLATION REMAINED IN THE SINGLE DIGITS, AND GROWTH WAS EXPECTED TO REACH 3 PERCENT, UP FROM 0.3 PERCENT IN 1998. PER CAPITA GROSS DOMESTIC PRODUCT IS ESTIMATED AT \$2,500. MAJOR EXPORTS INCLUDE COPPER AND OTHER MINERALS, FISHMEAL AND TEXTILES. THE UNEMPLOYMENT RATE IN LIMA IS ESTIMATED AT 9.5 PERCENT; UNDEREMPLOYMENT REMAINS AROUND 45 PERCENT. MORE THAN HALF OF THE ECONOMICALLY ACTIVE POPULATION WORKS IN THE INFORMAL SECTOR. THE POOR CONSTITUTED 50 PERCENT OF THE POPULATION IN 1997, DOWN FROM 57.4 PERCENT IN 1991; SOME 15 PERCENT OF THE POPULATION LIVE IN EXTREME POVERTY, DOWN FROM 26.8 PERCENT IN 1991. LABOR ADVOCATES ARGUE THAT LABOR LAWS AND PRACTICES RESTRICT COLLECTIVE BARGAINING RIGHTS. ABOUT FIVE PERCENT OF THE WORK FORCE IS UNION-AFFILIATED.

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EGREGIOUS ABUSES OF HUMAN RIGHTS CONTINUED TO DECLINE LAST YEAR. ALTHOUGH THERE WERE NUMEROUS ACCUSATIONS OF SERIOUS HUMAN RIGHTS INFRACTIONS, THE WIDESPREAD VIOLATIONS THAT ACCOMPANIED THE WAR AGAINST TERRORISM HAVE ENDED. THE AD HOC PARDONS COMMISSION CONTINUED TO TAKE APPLICATIONS FROM INDIVIDUALS CLAIMING TO HAVE BEEN UNJUSTLY JAILED FOR TERRORISM OR TREASON. THE COMMISSION RECOMMENDED PRESIDENTIAL PARDONS FOR 29 APPLICANTS, AND WON THE RELEASE OF 7 DETAINEES, BRINGING THE TOTAL OF THOSE PARDONED AND RELEASED TO 469. THE NEWLY CREATED TERRORISM DIVISION OF THE SUPERIOR COURT TRAVELED TO AYACUCHO AND DISMISSED 158 LONGSTANDING ARREST WARRANTS ON TERRORIST CHARGES.

THE OFFICE OF THE DEFENDER OF THE PEOPLE, OR HUMAN RIGHTS OMBUDSMAN, OPENED SEVERAL NEW OFFICES THROUGHOUT THE COUNTRY AND PERUVIANS CONTINUED TO REGARD THAT INSTITUTION AS THE COUNTRY'S PREEMINENT PROMOTER AND DEFENDER OF HUMAN RIGHTS.

AT THE OMBUDSMAN'S URGING, THE GOVERNMENT UNDERTOOK POSITIVE EFFORTS TO ADDRESS VIOLENCE AND DISCRIMINATION AGAINST WOMEN AND CHILDREN.

STILL, LACK OF ACCOUNTABILITY WITHIN THE ARMED FORCES, PARTICULARLY REGARDING COUNTER-TERRORIST OPERATIONS, REMAINS A CONCERN. THE HUMAN RIGHTS OMBUDSMAN DOCUMENTED SEVERAL CASES IN WHICH TORTURE DURING INTERROGATION OF SUSPECTED TERRORISTS CONTINUED WITH VIRTUAL IMPUNITY. THERE IS LITTLE MEANINGFUL DIALOGUE BETWEEN THE SECURITY FORCES AND HUMAN RIGHTS REPRESENTATIVES.

QUESTIONS REMAIN ABOUT THE OPENNESS AND FAIRNESS OF THE ELECTORAL PROCESS AND PRESS FREEDOMS. IN AUGUST-SEPTEMBER, LEADING OPPOSITION CANDIDATES PRESENTED CONVINCING EVIDENCE OF HARASSMENT AND INTIMIDATION BY PRO-GOVERNMENT ELEMENTS, WHICH THE GOVERNMENT PLEDGED TO OPPOSE. HOWEVER, A CIVIL COURT ORDERED THE PUBLIC MINISTRY TO CEASE ITS INVESTIGATION OF ALLEGED HARASSMENT OF OPPOSITION CANDIDATES. GOVERNMENT EFFORTS TO ENSURE A COMPLIANT, UNCRITICAL PRESS CONTINUED, AND FREEDOM HOUSE RANKED PERU AS THE WORST COUNTRY IN LATIN AMERICA FOR PRESS FREEDOM APART FROM CUBA. DISCRIMINATION AGAINST THE DISABLED, INDIGENOUS PEOPLE, AND RACIAL AND ETHNIC MINORITIES REMAINED PROBLEMS IN PERUVIAN SOCIETY.

SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON,  
INCLUDING FREEDOM FROM:

QA. POLITICAL AND OTHER EXTRAJUDICIAL KILLINGS

THERE WAS ONE CASE OF AN EXTRA-JUDICIAL KILLING; THE MOTIVE WAS UNCLEAR. ON JANUARY 16, PABLO PASCUAL ESPINOZA WAS BEATEN TO DEATH BY GUARDS IN THE YANAMILLA PRISON IN AYACUCHO. GUARDS MARCO ESPINOZA RIVERA AND MARCIAL PIREZ YOPLA WERE CHARGED AND TRIED UNDER THE 1998 ANTI-TORTURE LAW. ESPINOZA WAS SENTENCED TO 12 YEARS IN PRISON AND PIREZ WAS ACQUITTED. THE CASE IS BEING APPEALED BEFORE THE SUPREME COURT.

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PRESS REPORTS ON THE CASE OF RICARDO TELMO HURTADO HURTADO UNDERScore THE CONTINUING PERCEPTION THAT THE ARMED FORCES OPERATE WITH IMPUNITY IN THE WAR AGAINST TERRORISM. IN 1985 SECOND LIEUTENANT HURTADO COMMANDED THE ARMY UNIT RESPONSIBLE FOR THE ACCOMARCA MASSACRE, IN WHICH MORE THAN 60 PEOPLE DIED, MANY OF THEM WOMEN AND CHILDREN. HURTADO AND OTHER OFFICERS WERE INITIALLY CHARGED WITH MURDER. IN COURT, HURTADO ADMITTED EXECUTING 25-30 PEASANTS WHOM HE BELIEVED WERE TERRORISTS. ALL THE DEFENDANTS WERE EVENTUALLY ACQUITTED, EXCEPT HURTADO, WHO WAS CONVICTED OF "ABUSE OF AUTHORITY" AND DISOBEDIENCE. HE WAS ORDERED DISMISSED FROM THE ARMY IN 1993 AND ALLEGEDLY SENTENCED TO PRISON FOR 7 YEARS. DURING THE 8 YEARS FROM THE DATE OF THE MASSACRE IN 1985 TO HIS FINAL APPEAL IN 1993, HURTADO WAS PROMOTED FROM SECOND LIEUTENANT TO CAPTAIN. PERUVIAN MILITARY CODE STATES THAT ANY CONVICTION WHICH ENTAILS A SENTENCE OF TWO OR MORE YEARS IN PRISON MUST RESULT IN THE OFFICER'S IMMEDIATE DISCHARGE. IN MAY, PHOTOGRAPHS WERE PUBLISHED WHICH APPEARED TO SHOW HURTADO PRESIDING AT A PUBLIC FUNCTION IN UNIFORM WITH THE FOUR BARS OF A MAJOR. THE ARMED FORCES HAVE YET TO PROVIDE COHERENT ANSWERS REGARDING HURTADO'S PROMOTION TO MAJOR OR HIS CURRENT STANDING IN THE ARMY BEYOND MAINTAINING THAT HE WAS RELEASED FROM PRISON UNDER THE GENERAL AMNESTY OF 1995.

IN SEPTEMBER, THE TORTURED AND STRANGLED BODY OF GUILLERMO COA MANSANILLA WAS FOUND IN ONE OF LIMA'S POORER NEIGHBORHOODS WITH A NOTE THAT READ, "THIS IS WHAT HAPPENS TO RAPISTS." POLICE SUSPECT VIGILANTES BUT HAVE NOT LINKED THE KILLING TO A SELF-DEFENSE COMMITTEE (SEE SECTION 1 C).

REGARDING THE 1998 EXTRAJUDICIAL KILLING OF WILLY LLERENA MACEDO, THE TWO SUSPECT POLICE OFFICERS, FILIX ROJAS DAZA AND ZSZIMO CAMPOS GAMBOA, WERE PLACED ON ONE-YEAR PROBATION FOR FAILURE TO DO THEIR DUTY, BUT WERE ACQUITTED OF LLERENA'S MURDER.

NO PROGRESS HAS BEEN MADE IN THE INVESTIGATION OF THE FOUR SOLDIERS SUSPECTED OF ROBBING AND KILLING GENARO JULCA BULA AND ALBERTO APONTE IN 1998. DURING THE YEAR, SENDERO LUMINOSO TERRORISTS KILLED 16 CIVILIANS AND 10 SOLDIERS (AS OF 10/16/99). (SEE SECTION 1.G.).

**QB. DISAPPEARANCE**

THERE WAS ONLY ONE REPORT OF DISAPPEARANCE ATTRIBUTED TO THE SECURITY FORCES; THERE IS NO EVIDENCE THAT IT WAS POLITICALLY MOTIVATED. ON MARCH 20, WALTER MUNARRIZ ESCOBAR, 19, WAS DETAINED ON QUESTIONABLE THEFT CHARGES, TAKEN INTO CUSTODY AND BEATEN AT THE LICAY POLICE STATION, PROVINCE OF ANGARAES, DEPARTMENT OF HUANCABELICA, AND NOT SEEN AGAIN. SEVERAL PERUVIAN NATIONAL POLICE OFFICIALS WERE ARRESTED IN CONNECTION WITH MUNARRIZ'S DISAPPEARANCE, INCLUDING THE HUSBAND OF THE WOMAN WHO ACCUSED MUNARRIZ OF

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THEFT. CHARGES AGAINST THIS OFFICIAL WERE SUBSEQUENTLY DROPPED. THE CASE CONTINUES TO WORK ITS WAY THROUGH THE JUDICIAL SYSTEM AND IS BEING MONITORED BY THE LOCAL REPRESENTATIVE OF THE HUMAN RIGHTS OMBUDSMAN.

THE GOVERNMENT PAID FULL COMPENSATION, AS ORDERED BY THE IAHCR, TO THE FAMILY OF NEIRA ALEGRIA, WHO DISAPPEARED IN 1986. AT YEAR'S END, THE GOVERNMENT STILL HAD NOT PAID \$245,000 IN COMPENSATION TO THE FAMILY OF ERNESTO RAFAEL CASTILLO PAEZ, A 1990 DISAPPEARANCE CASE, DESPITE THE IAHCR RULING THAT THE GOVERNMENT HAD VIOLATED CASTILLO PAEZ'S RIGHT TO LIFE, LIBERTY AND PERSONAL INTEGRITY.

QC. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING  
QQTREATMENT OR PUNISHMENT

THE CONSTITUTION PROHIBITS TORTURE AND INHUMAN OR HUMILIATING TREATMENT AND THE GOVERNMENT ENACTED ANTI-TORTURE LEGISLATION IN 1998. HOWEVER, THE HUMAN RIGHTS OMBUDSMAN AND NGOS BELIEVE THAT BEATING AND OTHER TORTURE OF DETAINEES BY SECURITY FORCES IS WIDESPREAD, ESPECIALLY IMMEDIATELY FOLLOWING ARREST AND PARTICULARLY IN POLICE AND MILITARY DETENTION FACILITIES IN EMERGENCY ZONES. IN EMERGENCY ZONES, WHICH NOW COVER 5.5 PERCENT OF THE COUNTRY'S TERRITORY AND 4.8 PERCENT OF ITS POPULATION (DOWN FROM 16 PERCENT AND 23 PERCENT, RESPECTIVELY, AT THE END OF 1998), CERTAIN CONSTITUTIONAL PROTECTIONS ARE SUSPENDED. PRESIDENT FUJIMORI ANNOUNCED SEPTEMBER 21 THAT HE INTENDS TO ELIMINATE THE EMERGENCY ZONES ALTOGETHER BY FEBRUARY 2000.

THE HUMAN RIGHTS OMBUDSMAN AND NGOS REPORTED 13 CASES OF AGGRAVATED TORTURE BY SECURITY FORCES. ONE SOLIDLY DOCUMENTED CASE OCCURRED IN DECEMBER 1998 AND WAS APPARENTLY AN EXAMPLE OF MISTAKEN IDENTITY. MIGUEL ANDAHUA WAS DETAINED AND ASSAULTED BY NAVAL UNITS OF THE AGUAYTIA NAVAL BASE, LOCATED IN PERU'S AMAZON BASIN. AFTER SEVERAL DAYS, HE WAS TURNED OVER TO POLICE WITH A SIGNED CONFESSION THAT HE WAS A TERRORIST AND A MEDICAL REPORT ATTRIBUTING HIS NUMEROUS INJURIES TO AN AUTOMOBILE ACCIDENT. IN ADDITION TO SEVERE BEATINGS AND ELECTRIC SHOCKS, HE WAS SODOMIZED REPEATEDLY WITH A WOODEN BATON. POLICE RELEASED ANDAHUA AND ABSOLVED HIM OF ANY TERRORIST LINKS. A SPECIAL PROSECUTOR CHARGED SEVERAL NAVAL OFFICIALS UNDER THE ANTI-TORTURE LAW.

THE COURT ISSUED ONLY ONE ARREST WARRANT, HOWEVER, AGAINST JULIO SPENCER GUIDO DAVALOS, ON A MUCH LESSER CHARGE OF COMMITTING BODILY HARM. NOTWITHSTANDING THE WARRANT, THE AGUAYTIA NAVAL BASE AND NAVAL AUTHORITIES REFUSED TO COOPERATE WITH CIVIL AUTHORITIES AND GUIDO REMAINS AT LARGE.

INSTANCES OF TORTURE AND OTHER INHUMAN OR DEGRADING TREATMENT OTHERWISE REMAIN LARGELY UNDOCUMENTED, BUT THE HUMAN RIGHTS OMBUDSMAN AND NGOS BELIEVE THEY INCLUDE BEATINGS, ELECTRIC SHOCK, WATER TORTURE, ASPHYXIATION, SEXUAL ABUSE AND THE HANGING OF VICTIMS BY A ROPE ATTACHED TO HANDS TIED BEHIND THE BACK. PSYCHOLOGICAL TORTURE

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METHODS INCLUDED SLEEP DEPRIVATION AND DEATH THREATS AGAINST THE DETAINEES AND THEIR FAMILIES. INTERROGATORS REPORTEDLY BLINDFOLDED THEIR VICTIMS TO AVOID IDENTIFICATION.

THERE WERE REPORTS OF BEATINGS AND MISTREATMENT OF RECRUITS IN ARMY BASES BUT THIS, ALONG WITH FORCED RECRUITMENT, APPEARS TO BE LESS OF A PROBLEM THAN IN PREVIOUS YEARS (SEE SECTION 1.F.). THOUGH SEVERAL SENTENCES HAVE BEEN HANDED DOWN UNDER THE TOUGH ANTI-TORTURE LAW OF FEBRUARY 1998, ALL HAVE BEEN OVERTURNED ON APPEAL.

IN RESPONSE TO TERRORISM IN THE 1980'S AND EARLY 1990'S, MANY COMMUNITIES ORGANIZED SELF-DEFENSE COMMITTEES. TERRORISM IS NO LONGER A SERIOUS THREAT IN MOST AREAS AND SELF-DEFENSE COMMITTEES NOW SEEK TO DETER CRIME. COMMITTEES PATROL THEIR COMMUNITIES NIGHTLY AND REGULARLY APPREHEND CRIMINALS IN THE ACT. COMMITTEE MEMBERS SOMETIMES ADMINISTER VIGILANTE JUSTICE BEFORE TURNING THE SUSPECT OVER TO POLICE. IN 1999, NUMEROUS COMPLAINTS OF BEATINGS AND ONE CASE OF RAPE WERE LEVELED AGAINST SELF-DEFENSE COMMITTEE MEMBERS.

IN THE 1998 TORTURE AND MURDER CASE OF LUCAS HUAMAN CRUZ AGAINST POLICEMAN RAYMUNDO GUTIERREZ RIVERO, THE DEFENDANT WAS ACQUITTED OF ALL CHARGES BY THE DEPARTMENTAL COURT IN AYACUCHO. DESPITE CONVINCING EVIDENCE TO THE CONTRARY, THE COURT APPARENTLY ACCEPTED THE DEFENSE'S ASSERTION THAT HUAMAN'S FAMILY, RATHER THAN GUTIERREZ, HAD TORTURED AND BEATEN HIM TO DEATH. ATTORNEYS REPRESENTING THE HUAMAN FAMILY AND THE ATTORNEY GENERAL'S OFFICE HAVE PETITIONED TO HAVE THE ACQUITTAL ANNULLED AND THE CASE RE-TRIED BEFORE THE SUPREME COURT. NO PROGRESS WAS MADE IN THE 1998 BEATING AND TORTURE OF PABLO WALDIR CERRON GONZALEZ BY POLICEMAN ELMER PEREZ ARNAO.

IN THE 1997 CASE OF LEONOR LA ROSA, A MILITARY INTELLIGENCE OFFICER WHO WAS BEATEN AND TORTURED BY FOUR OF HER COLLEAGUES AND NOW RESIDES IN SWITZERLAND UNDER UNHCR PROTECTION, THE SUPREME COUNCIL OF MILITARY JUSTICE AWARDED LA ROSA APPROXIMATELY \$1500 AS AN INDEMNITY. LA ROSA'S ATTORNEY CONSIDERED THE AMOUNT GROSSLY INADEQUATE, GIVEN THAT SHE WAS NOW A PARAPLEGIC. THE INTER-AMERICAN COURT OF HUMAN RIGHTS WAS REVIEWING LA ROSA'S CASE WHEN PERU ANNOUNCED ITS WITHDRAWAL FROM THE COURT'S JURISDICTION.

THERE CONTINUED TO BE CREDIBLE REPORTS THAT SENDERO LUMINOSO WAS ALSO RESPONSIBLE FOR ACTS OF TORTURE, INCLUDING CASES THAT RESULTED IN DEATH (SEE SECTION 1 A).

THE GOVERNMENT PERMITS PRISON VISITS BY INDEPENDENT HUMAN RIGHTS MONITORS, INCLUDING THE ICRC. PRISON CONDITIONS CONTINUED TO BE EXTREMELY HARSH DUE TO LOW BUDGETS, POOR PRISON ADMINISTRATION, SEVERE OVERCROWDING, LACK OF SANITATION, AND POOR NUTRITION AND HEALTH CARE. PRISONERS WERE VICTIMIZED ROUTINELY BY PRISON GUARDS AND FELLOW

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INMATES. CORRUPTION CONTINUED TO BE A SERIOUS PROBLEM AMONG POORLY PAID PRISON GUARDS, MANY OF WHOM WERE IMPLICATED IN SEXUAL ABUSE, EXTORTION, NARCOTICS AND WEAPONS SALES, AND THE ACCEPTANCE OF BRIBES. SINCE PRISON AUTHORITIES DO NOT SUPPLY ADEQUATE BEDDING AND BUDGET ONLY ABOUT \$0.75 (2.5 SOLES) PER PRISONER PER DAY FOR FOOD, THE FAMILIES OF PRISONERS TYPICALLY PROVIDE FOR THESE BASIC NEEDS. IN HIGH-SECURITY PRISONS, FEMALE INMATES ARE ALLOWED TO SEE THEIR CHILDREN ONLY ONCE A WEEK. IN PRISONS THAT HOUSE ONLY COMMON CRIMINALS, HOWEVER, SUCH AS LIMA'S CHORRILLOS WOMEN'S PRISON, CHILDREN THREE YEARS OF AGE AND YOUNGER LIVE WITH THEIR JAILED MOTHERS.

AT LIMA'S LURIGANCHO MEN'S PRISON, THE COUNTRY'S LARGEST, MORE THAN 5,800 PRISONERS LIVE IN A FACILITY BUILT FOR 1,500. INMATES HAVE ONLY INTERMITTENT ACCESS TO RUNNING WATER; BATHING FACILITIES ARE INADEQUATE; KITCHEN FACILITIES ARE UNHYGIENIC; AND PRISONERS SLEEP IN HALLWAYS AND COMMON AREAS. ILLEGAL DRUGS ARE ABUNDANT IN MANY PRISONS, AND TUBERCULOSIS AND AIDS ARE REPORTEDLY AT NEAR-EPIDEMIC LEVELS. DETAINEES HELD TEMPORARILY WHILE AWAITING ARRAIGNMENT AT LIMA'S PALACE OF JUSTICE ARE NOT ALLOWED OUTSIDE FOR FRESH AIR AND HAVE RESTRICTED ACCESS TO BATHROOMS. ACCORDING TO THE CATHOLIC BISHOP'S SOCIAL ACTION COMMISSION (CEAS), ONLY 10 PERCENT OF THE COUNTRY'S 89 PRISONS HAVE ADEQUATE FACILITIES.

ACCORDING TO HUMAN RIGHTS MONITORS, THE CHALLAPALCA PRISON IN TACNA, SERIOUSLY VIOLATES INTERNATIONAL NORMS AND STANDARDS. LOCATED AT AN ALTITUDE OF ABOUT 14,000 FEET, CHALLAPALCA'S FREEZING TEMPERATURES AND OXYGEN-THIN AIR HAVE UNAVOIDABLY NEGATIVE EFFECTS ON PRISONER HEALTH. MOREOVER, SINCE THE PRISON CAN BE REACHED ONLY AFTER AN ALL-NIGHT BUS RIDE FROM THE NEAREST POPULATION CENTER, MOST FAMILIES CAN VISIT THEIR JAILED RELATIVES ONLY RARELY. HOSPITAL CARE IS EIGHT HOURS AWAY BY OVERLAND TRANSPORTATION. FACE-TO-FACE CONSULTATIONS BY INMATES WITH THEIR ATTORNEYS ARE RARE. TO RELIEVE SOME OF THE ISOLATION, THE ICRC FUNDS A MONTHLY VISIT TO CHALLAPALCA FOR FAMILIES OF ITS INMATES. THE INTERNATIONAL FEDERATION OF HUMAN RIGHTS, AS WELL AS VISITING MEMBERS OF THE IACHR AND THE OMBUDSMAN, CALLED ON THE GOVERNMENT TO SHUT DOWN CHALLAPALCA.

THERE WERE A NUMBER OF PROTESTS AND HUNGER STRIKES IN VARIOUS PRISONS, INCLUDING THE HIGH SECURITY PRISONS AT THE CALLAO NAVAL STATION AND YANAMAYO.

QD. ARBITRARY ARREST, DETENTION, OR EXILE

ARBITRARY DETENTION REMAINS A PROBLEM. THE CONSTITUTION, CRIMINAL CODE, AND ANTITERRORIST STATUTES DELINEATE THE ARREST AND DETENTION PROCESS. THE CONSTITUTION REQUIRES A WRITTEN JUDICIAL WARRANT FOR AN ARREST UNLESS THE PERPETRATOR OF A CRIME IS CAUGHT IN THE ACT. THE ORGANIC LAW OF THE NATIONAL POLICE PERMITS THE POLICE TO DETAIN A

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PERSON FOR ANY INVESTIGATIVE PURPOSE, HOWEVER. ALTHOUGH THE AUTHORITIES MUST ARRAIGN ARRESTED PERSONS WITHIN 24 HOURS, THEY OFTEN VIOLATE THIS REQUIREMENT. IN CASES OF TERRORISM, DRUG TRAFFICKING, OR ESPIONAGE, ARRAIGNMENT MUST TAKE PLACE WITHIN 30 DAYS. MILITARY AUTHORITIES MUST TURN OVER PERSONS THEY DETAIN TO THE CIVILIAN POLICE WITHIN 24 HOURS; IN REMOTE AREAS OF THE COUNTRY THIS MUST BE ACCOMPLISHED AS SOON AS PRACTICABLE. HOWEVER, THE MILITARY SOMETIMES DISREGARDS THIS REQUIREMENT.

THE GOVERNMENT SUSPENDS CERTAIN CONSTITUTIONAL PROTECTIONS IN THE EMERGENCY ZONES WHERE, FOR EXAMPLE, SECURITY FORCES DO NOT NEED AN ARREST WARRANT IN ORDER TO DETAIN A SUSPECT.

POLICE MAY DETAIN TERRORISM AND TREASON SUSPECTS FOR A MAXIMUM OF 15 DAYS, AND HOLD THEM INCOMMUNICADO FOR THE FIRST 10 DAYS. AUTHORITIES PROHIBIT FAMILIES FROM VISITING SUSPECTS BEING HELD INCOMMUNICADO, AND ATTORNEYS HAVE ACCESS TO THEM ONLY DURING THE PREPARATION AND WHILE THE PROSECUTOR TAKES SWORN STATEMENTS.

AT YEAR'S END, THE GOVERNMENT (HAD TAKEN NO ACTION/ACTED) ON RECOMMENDATIONS OF THE HUMAN RIGHTS OMBUDSMAN TO RESOLVE THE CASES OF AN ESTIMATED 5,228 INDIVIDUALS STILL SUBJECT TO DETENTION ORDERS. TERRORISTS ALLEGEDLY FORCED MANY OF THESE INDIVIDUALS TO PARTICIPATE IN CRIMINAL ACTIVITIES, WHILE OTHERS PURPORTEDLY WERE WRONGFULLY ACCUSED OF LINKS TO TERRORIST GROUPS. THE OMBUDSMAN CALLED ON THE GOVERNMENT TO RESCIND DETENTION ORDERS MORE THAN FIVE YEARS OLD AND ALL ORDERS THAT DID NOT COMPLY WITH LEGAL SPECIFICATIONS. THE OMBUDSMAN ALSO ASKED THAT THE AD HOC PARDONS COMMISSION BE AUTHORIZED TO EVALUATE ANY REMAINING CASES AND TO RECOMMEND THAT THE PRESIDENT REVOKE THOSE DETENTION ORDERS WHERE EVIDENCE WAS INSUFFICIENT.

DETAINEES HAVE THE RIGHT TO A PROMPT JUDICIAL DETERMINATION OF THE LEGALITY OF THEIR DETENTION AND ADJUDICATION OF HABEAS CORPUS PETITIONS. ACCORDING TO HUMAN RIGHTS ATTORNEYS, HOWEVER, JUDGES CONTINUED TO DENY MOST REQUESTS FOR SUCH HEARINGS. IN LIMA AND CALLAO, DETAINEE PETITIONS FOR HABEAS CORPUS ARE SEVERELY RESTRICTED BECAUSE ONLY TWO JUDGES ARE ABLE TO HEAR SUCH PETITIONERS, INSTEAD OF THE 40 TO 50 IN PREVIOUS YEARS. JUDGES RARELY ALLOW THE UNCONDITIONAL RELEASE OF SUSPECTED TERRORISTS, EVEN IF THERE IS INSUFFICIENT EVIDENCE TO BRING A CASE AGAINST THEM. ACCUSED TERRORISTS SOMETIMES MUST WAIT UNTIL THEIR CASES HAVE BEEN REVIEWED AND DISMISSED BY THE SUPREME COURT BEFORE THEY ARE FREED. THIS PROCESS CAN LAST MORE THAN A YEAR.

AT YEAR'S END, 60 PERCENT OF A TOTAL PRISON POPULATION OF 27,600 HAD BEEN SENTENCED. THE REMAINDER EITHER WAS AWAITING TRIAL OR HAD NOT RECEIVED A FINAL SENTENCE. IN LURIGANCHO, XX PERCENT OF THE INMATE POPULATION REMAINED UNSENTENCED. ACCORDING TO THE NATIONAL PENITENTIARY INSTITUTE, THE ELAPSED TIME BETWEEN ARREST AND TRIAL IN CIVIL, CRIMINAL, AND TERRORISM CASES AVERAGES BETWEEN 26 AND 36 MONTHS. THOSE ARRESTED BY MILITARY COURTS ON TREASON



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CHARGES, HOWEVER, GENERALLY DO NOT HAVE TO WAIT MORE THAN 40 DAYS FOR THEIR TRIAL. PRISONERS CONTINUE TO HAVE TO WAIT LONG PERIODS BEFORE RECEIVING COPIES OF THEIR SENTENCES.

NINE HUMAN RIGHTS LAWYERS WERE CHARGED IN NOVEMBER 1997 WITH TERRORISM AND TREASON FOR DEFENDING SENDERO LUMINOSO TERRORISTS IN MILITARY COURTS. THIS GROUP, INCLUDING SENDERO LUMINOSO FOUNDER ABIMAEL GUZMAN'S DEFENSE ATTORNEY LUIS RAMON LANDAURE, WAS ARRESTED IN MAY 1999. THEY WERE ACQUITTED IN SEPTEMBER.

THE CONSTITUTION DOES NOT PERMIT EXILE, AND THE GOVERNMENT RESPECTS THIS PROHIBITION.

QE. DENIAL OF FAIR PUBLIC TRIAL

THE CONSTITUTION PROVIDES FOR AN INDEPENDENT JUDICIARY. IN PRACTICE, HOWEVER, THE JUDICIARY IS SUSCEPTIBLE TO IMPROPER INFLUENCE FROM PRIVATE AND GOVERNMENT SECTORS. BECAUSE IT IS ALSO OFTEN INEFFICIENT, PUBLIC CONFIDENCE IN THE JUDICIARY REMAINS LOW.

PERUQS JUSTICE SYSTEM GENERALLY IS BASED ON THE NAPOLEONIC CODE. ITS THREE-TIER COURT STRUCTURE CONSISTS OF LOWER AND SUPERIOR COURTS AND A SUPREME COURT OF 33 JUDGES. IN CIVILIAN COURTS CRIMINAL CASES MOVE THROUGH THREE DISTINCT PHASES. FIRST, IN A LOWER COURT A PUBLIC MINISTRY PROSECUTOR INVESTIGATES CASES AND SUBMITS AN OPINION TO THE EXAMINING JUDGE, WHO DETERMINES WHETHER THERE IS SUFFICIENT EVIDENCE TO INDICT. IF THERE IS, THE JUDGE CONDUCTS ALL NECESSARY INVESTIGATIONS AND DELIVERS A CASE REPORT TO THE SUPERIOR COURT PROSECUTOR. SECOND, THE SUPERIOR COURT PROSECUTOR REVIEWS THE LOWER COURT DECISION TO DETERMINE IF FORMAL CHARGES WILL BE BROUGHT AND RENDERS AN ADVISORY OPINION TO ANOTHER SUPERIOR COURT, WHERE A THREE-JUDGE PANEL HOLDS AN ORAL TRIAL. ALL CRIMINAL CASE CONVICTIONS IN CIVILIAN COURTS MUST PROCEED TO A THIRD PHASE, WHERE THE SUPREME COURT HEARS APPEALS AND CONFIRMS OR REJECTS THE PREVIOUS SENTENCES.

ALL DEFENDANTS HAVE THE RIGHT TO BE PRESENT AT THEIR TRIAL.

DEFENDANTS ALSO HAVE THE RIGHT TO COUNSEL. HOWEVER, A PUBLIC DEFENDER SYSTEM EXISTS IN NAME ONLY; THE JUDICIAL SYSTEM OFTEN FAILS TO PROVIDE INDIGENT DEFENDANTS WITH QUALIFIED ATTORNEYS.

IN 1993, THE GOVERNMENT CREATED THE EXECUTIVE COMMISSION OF THE JUDICIAL BRANCH AND THE EXECUTIVE COMMISSION OF THE PUBLIC MINISTRY FOR A FIVE-YEAR PERIOD TO CARRY OUT JUDICIAL REFORM. IN DECEMBER 1998 BOTH COMMISSIONS WERE EXTENDED UNTIL DECEMBER 2000. THE JUDICIAL REFORM PROCESS HAS PRODUCED SOME SUCCESSES, INCLUDING ADMINISTRATIVE, TECHNICAL AND ORGANIZATIONAL IMPROVEMENTS SUCH AS COMPUTERIZATION OF FILES AND IMPROVED WORK AREAS FOR JUDGES AND MAGISTRATES. REFORMS ALSO ESTABLISHED QUICKER AND LESS EXPENSIVE

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PROCEDURES AND BETTER SALARIES FOR JUDGES. BEGINNING IN JANUARY OF 2000, A NEW LAW (THE EXTRA-JUDICIAL CONCILIATION LAW) MAKING CONCILIATION A MANDATORY FIRST STEP IN MOST CIVIL CASES WILL BE IMPLEMENTED IN THE CITIES OF LIMA, AREQUIPA AND TRUJILLO.

THESE SUCCESSES HAVE BEEN OVERSHADOWED, HOWEVER, BY THE LACK OF A FULLY FUNCTIONING CONSTITUTIONAL TRIBUNAL; THE CURTAILMENT OF THE AUTHORITY OF THE NATIONAL JUDICIARY COUNCIL TO INVESTIGATE, DISCIPLINE AND REMOVE JUDGES; THE CONTINUING LARGE NUMBER OF PROVISIONAL JUDGES IN THE COURT SYSTEM; AND THE TRANSFER OF JURISDICTION OF SENSITIVE CASES TO COURTS MORE INCLINED TO RULE IN THE GOVERNMENT'S FAVOR.

THE CONSTITUTIONAL TRIBUNAL REMAINS UNABLE TO RULE ON THE CONSTITUTIONALITY OF LEGISLATION AND GOVERNMENT ACTIONS FOR LACK OF A QUORUM, SINCE THE IMPEACHMENT AND CONVICTION OF THREE JUSTICES WHO VOTED AGAINST AN INTERPRETATION ALLOWING PRESIDENT FUJIMORI TO RUN FOR A THIRD TERM IN OFFICE. THE GOVERNMENT IGNORED THE INTER-AMERICAN HUMAN RIGHTS COMMISSION RECOMMENDATION THAT THE THREE JUSTICES BE REINSTATED. THE CASE IS NOW PENDING BEFORE THE INTER-AMERICAN COURT OF HUMAN RIGHTS IN COSTA RICA, ALTHOUGH PERU'S UNILATERAL WITHDRAWAL FROM THE IACHR'S CONTENTIOUS JURISDICTION SUGGESTS IT WOULD NOT COMPLY WITH AN ADVERSE RULING.

THE NATIONAL JUDICIARY COUNCIL (NJC), ESTABLISHED BY THE 1993 CONSTITUTION TO TEST, NOMINATE, CONFIRM, EVALUATE AND DISCIPLINE JUDGES AND PROSECUTORS, REMAINS UNABLE TO CARRY OUT ITS ORIGINAL FUNCTIONS. A MARCH 1998 LAW TRANSFERRED THE POWER TO DISMISS SUPREME COURT JUDGES AND PROSECUTORS FROM THE NJC TO THE EXECUTIVE COMMISSIONS OF THE JUDICIAL BRANCH AND THE PUBLIC MINISTRY, RESPECTIVELY. A SEPTEMBER 1998 LAW PARTIALLY RESTORED THE NJC'S POWERS, WHILE LEAVING THE PUBLIC MINISTRY IN CHARGE OF DETERMINING WHOM THE NJC COULD INVESTIGATE.

THE NJC ALSO HAS THE POWER TO NOMINATE NEW JUDGES AND MAGISTRATES. IT IS UNABLE TO FULFILL THIS MANDATE, HOWEVER, UNTIL THE FIRST CLASS GRADUATES FROM THE NEW NATIONAL JUDICIAL ACADEMY IN JULY 2000. IN JUNE 1999, THE PRESIDENT OF THE NJC RESIGNED OVER DIFFERENCES WITH HIS COLLEAGUES AFTER HE ARGUED FOR A MORE PROACTIVE NJC ROLE. HIS RESIGNATION ALSO PROTESTED THE GOVERNMENT'S UNILATERAL WITHDRAWAL FROM THE IACHR'S CONTENTIOUS JURISDICTION.

THE NATIONAL JUDICIAL ACADEMY CONTINUES ITS TRAINING PROGRAM FOR JUDGES AND MAGISTRATES, WHICH CONSISTS OF A FEW HOURS OF CLASSES EACH WEEK DURING THE FIRST YEAR, AND PRACTICAL TRAINING DURING THE SECOND. THE ACADEMY'S TRAINING PROGRAM WAS ORIGINALLY TO LAST SIX MONTHS. ITS EXTENSION TO TWO YEARS WAS STRONGLY CRITICIZED AS FURTHER PROLONGING THE RELIANCE ON PROVISIONAL AND TEMPORARY OFFICIALS. THE ACADEMY IS NOW SCHEDULED TO GRADUATE ITS FIRST GRADUATING

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CLASS IN JULY OF 2000.

OF THE COUNTRYQS 1,531 JUDGES, 574 HAVE PERMANENT APPOINTMENTS, HAVING BEEN INDEPENDENTLY SELECTED. THE REMAINING 957, INCLUDING 19 OF THE 33 JUDGES OF THE SUPREME COURT, HAVE PROVISIONAL OR TEMPORARY STATUS.

CRITICS CHARGE THAT, AS THESE JUDGES LACK TENURE, THEY ARE MORE SUSCEPTIBLE TO OUTSIDE PRESSURES. THEY POINT TO THE CREATION BY THE EXECUTIVE COMMISSION OF THE JUDICIARY OF TWO SPECIALIZED CHAMBERS OF THE SUPREME COURT. THESE CHAMBERS, STAFFED BY PROVISIONAL AND TEMPORARY JUDGES, ASSUMED CONTROL OVER TAX, CUSTOMS, AND NARCOTICS CRIMES PREVIOUSLY UNDER THE JURISDICTION OF THE TENURED JUDGES OF THE LIMA SUPERIOR COURT. IT IS BELIEVED THAT THIS TRANSFER OF JURISDICTION ENABLED THE GOVERNMENT TO CLOSELY SUPERVISE SUCH CASES AS THAT OF BARUCH IVCHER AND HIS FAMILY AND ASSOCIATES, OF JAIME MUR (A CASE NOW DISMISSED) AND OF FORMER MINISTER OF LABOR JORGE MUFARECH TO ENSURE DECISIONS FAVORABLE TO THE GOVERNMENT. CRITICS ALSO POINT TO OCCASIONS WHEN JUDGES OR PROSECUTORS RULING AGAINST THE GOVERNMENTQS INTERESTS HAVE BEEN TRANSFERRED AND REPLACED BY NEW JUDGES WHO IMMEDIATELY OVERRULED THE PREVIOUS DECISIONS (SEE CASE OF FAISAL IN SECTION 2.A.).

UNDER THE MILITARY JUSTICE SYSTEM, JUDGES IN THE LOWER COURTS HAVE THE POWER TO SENTENCE AND ARE REQUIRED TO PASS JUDGMENT WITHIN 10 DAYS OF A TRIALQS OPENING. DEFENDANTS MAY THEN APPEAL THEIR SENTENCES TO THE SUPERIOR MILITARY COUNCIL, WHICH HAS 10 DAYS TO MAKE ITS DECISION. A FINAL APPEAL MAY BE MADE TO THE SUPREME COUNCIL OF MILITARY JUSTICE, WHICH MUST ISSUE ITS RULING WITHIN 5 DAYS. AT THE MILITARY SUPERIOR COURT AND SUPREME COURT LEVELS, A SIGNIFICANT NUMBER OF JUDGES ARE ACTIVE-DUTY LINE OFFICERS WITH LITTLE OR NO PROFESSIONAL LEGAL TRAINING.

HUMAN RIGHTS GROUPS AND LEGAL EXPERTS STRONGLY CRITICIZE THE POWER OF THE MILITARY COURTS TO TRY CIVILIANS IN CASES OF TREASON OR AGGRAVATED TERRORISM AND THE CIVILIAN JUDICIAL SYSTEM'S INABILITY TO REVIEW MILITARY COURT DECISIONS (SEE CASE OF GUSTAVO ADOLFO CESTI HURTADO IN SECTION 1A). WHILE "SIMPLE" TERRORISM CASES ARE TRIED IN CIVILIAN COURTS, CASES OF "AGGRAVATED" TERRORISM OR TREASON ARE TRIED ONLY BEFORE MILITARY COURTS. IN OCTOBER, PERU'S NEWLY APPOINTED PRIME MINISTER SAID THE GOVERNMENT INTENDED TO PROPOSE LEGISLATION TO HAVE AGGRAVATED TERRORISM TRIED IN CIVILIAN COURTS.

PROCEEDINGS IN THESE MILITARY COURTS -- AND THOSE FOR TERRORISM IN CIVILIAN COURTS -- DO NOT MEET INTERNATIONALLY ACCEPTED STANDARDS OF OPENNESS, FAIRNESS, AND DUE PROCESS. MILITARY COURTS HOLD TREASON TRIALS IN SECRET, ALTHOUGH SUCH SECRECY IS NOT LEGALLY REQUIRED. DEFENSE ATTORNEYS IN TREASON TRIALS ARE NOT PERMITTED ADEQUATE ACCESS TO THE FILES CONTAINING THE STATEQS EVIDENCE AGAINST THEIR CLIENTS, NOR ARE THEY ALLOWED TO QUESTION POLICE OR MILITARY

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WITNESSES EITHER BEFORE OR DURING THE TRIAL. SOME MILITARY JUDGES HAVE SENTENCED DEFENDANTS WITHOUT EVEN HAVING NOTIFIED THEIR LAWYERS THAT THE TRIALS HAD BEGUN.

HUMAN RIGHTS GROUPS AND LEGAL EXPERTS ALSO CHARGE THAT THE VAGUELY WORDED DEFINITIONS OF CERTAIN CRIMES IN THE ANTITERRORISM STATUTES OFTEN LEAD MILITARY JUDGES TO ISSUE SENTENCES DISPROPORTIONATE TO THE CRIMES COMMITTED. MOREOVER, DEFENDANTS IN TREASON CASES WHO ARE FOUND NOT GUILTY BY A MILITARY COURT MAY BE REMANDED TO A CIVILIAN COURT FOR A SECOND TRIAL ON TERRORISM CHARGES BASED ON THE SAME FACTS -- A PRACTICE CRITICIZED AS CONSTITUTING DOUBLE JEOPARDY.

ON JUNE 1, 1999, THE IACHR RULED AGAINST THE GOVERNMENT OF PERU IN THE CASE OF FOUR CHILEANS CONVICTED OF AGGRAVATED TERRORISM BY A MILITARY TRIBUNAL AND SENTENCED TO LIFE IN PRISON. THE IACHR FOUND THAT THE MILITARY HAD DENIED THE DEFENDANTS' DUE PROCESS GUARANTEED UNDER THE INTER-AMERICAN CONVENTION. THE IACHR RULED INTER ALIA THAT A CIVILIAN COURT SHOULD HAVE HAD JURISDICTION; THAT MILITARY AUTHORITIES HELD THE SUSPECTS TOO LONG IN PRE-TRIAL DETENTION; AND THAT DEFENSE ATTORNEYS LACKED ACCESS TO WITNESSES AND EVIDENCE AND SUFFICIENT TIME TO REVIEW THE CASE. THE COURT DIRECTED THE GOVERNMENT TO PROVIDE THE FOUR NEW, CIVILIAN TRIALS.

IMMEDIATELY FOLLOWING THE IACHR DECISION, THE EXECUTIVE BRANCH ANNOUNCED THAT PERU WOULD NOT COMPLY WITH THE IACHR RULING. SUBSEQUENTLY, THE SUPREME COURT DELEGATED TO THE SUPREME MILITARY TRIBUNAL THE FINAL DECISION REGARDING ENFORCEMENT OF THE IACHR DECISION. THE MILITARY TRIBUNAL RULED IT COULD NOT GRANT THE CHILEANS NEW CIVILIAN TRIALS BECAUSE PERU'S LAWS, PASSED AFTER THE SIGNING OF THE CONVENTION, REQUIRED MILITARY TRIALS IN CASES OF AGGRAVATED TERRORISM. PRESIDENT FUJIMORI AND HIS CABINET PROMPTLY ENDORSED THE TRIBUNAL'S DECISION NOT TO COMPLY WITH THE IACHR DECISION. DESPITE PROTEST FROM THE OPPOSITION AND THE LEGAL AND HUMAN RIGHTS COMMUNITIES IN JULY, THE CONGRESS PASSED A LAW WHICH CALLED FOR THE GOVERNMENT'S IMMEDIATE WITHDRAWAL FROM THE JURISDICTION OF THE IACHR. THE GOVERNMENT HAS MADE CLEAR ITS INTENTION NOT TO GRANT THE FOUR CHILEANS NEW, CIVILIAN TRIALS.

THE IACHR RULED SEPTEMBER 28 THAT PERU COULD NOT WITHDRAW IMMEDIATELY FROM THE COURT'S CONTENTIOUS JURISDICTION AND THAT IT WOULD CONTINUE TO PROCESS CASES PENDING AGAINST PERU. THE GOVERNMENT RESPONDED THAT IT CONSIDERED ITSELF CURRENTLY OUTSIDE OF THE COURT'S CONTENTIOUS (VICE ADVISORY) JURISDICTION. PUBLIC AND OFFICIAL STATEMENTS BY GOVERNMENT OFFICIALS RAISED QUESTIONS REGARDING THE EXTENT TO WHICH PERU WOULD COMPLY WITH PENDING AND FUTURE IACHR DECISIONS (CHECKING GOP LANGUAGE -- TO BE UPDATED). THIS DECISION EFFECTIVELY RESTRICTED A CONSTITUTIONAL RIGHT OF PERUVIANS TO SEEK REDRESS IN THE HEMISPHERE'S PRE-EMINENT

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INTERNATIONAL TRIBUNAL.

DURING THE YEAR, MILITARY COURTS TRIED XXXX PERSONS CHARGED WITH TREASON OR AGGRAVATED TERRORISM. THESE COURTS HANDED DOWN XXX PRISON SENTENCES, REMITTED XXX CASES TO CIVILIAN JURISDICTIONS, AND ACQUITTED XXX PERSONS. OF THE XXX PERSONS WHO WERE SENTENCED, XXX RECEIVED LIFE SENTENCES. OF THESE CASES, XXXX WERE THOSE OF CIVILIANS TRIED UNDER THE NEW DECREES. IN JULY 1999, THE MILITARY TRIED FOR AGGRAVATED TERRORISM CAPTURED SENDERO LUMINOSO LEADER OSCAR RAMIREZ DURAND, AKA "FELICIANO," IN SECRECY AT THE CALLAO NAVAL PRISON. FOLLOWING THE XXX DAY TRIAL, FELICIANO RECEIVED A LIFE SENTENCE.

IN 1998, PRESIDENT FUJIMORI ADOPTED A SERIES OF DECREES WHICH CLASSIFIED ACTS OF EXTREME VIOLENCE SUCH AS CRIMINAL GANG ACTIVITY, HOMICIDE, KIDNAPPING AND THE USE OF EXPLOSIVES AS "AGGRAVATED TERRORISM," TO BE TRIED AUTOMATICALLY BY THE MILITARY COURTS IN ACCELERATED PROCEEDINGS WITH POSSIBLE MAXIMUM PENALTIES OF LIFE IMPRISONMENT. THE GOVERNMENT ALSO CREATED THE NATIONAL INTELLIGENCE DIRECTORATE FOR SOCIAL PEACE AND SAFETY, WHICH INCREASED FURTHER THE ANTI-CRIME ROLE OF THE NATIONAL INTELLIGENCE SERVICE. OF THE TOTAL XXXX CASES TRIED IN MILITARY COURTS DURING 1999, XXXX WERE FOR CIVILIANS CHARGED UNDER THE NEW DECREES CLASSIFYING VIOLENT CRIME AS AGGRAVATED TERRORISM.

IN THE CIVILIAN JURISDICTION, A SPECIALIZED TERRORISM DIVISION OF THE SUPERIOR COURT BEGAN TRYING CASES IN 1998. THE DIVISION IS BASED IN LIMA, BUT ITS JUDGES TRAVEL TO THE PROVINCES AS NEEDED. DURING 1999, JUDGES FROM THIS COURT TRAVELED TO AYACUCHO TO HEAR THE CASES OF 158 INDIVIDUALS WITH OLD WARRANTS OUTSTANDING FOR TERRORISM CHARGES. OF THESE, JUDGES FOUND 24 INNOCENT AND ORDERED THE SUSPENSION OF ALL 158 WARRANTS. HUMAN RIGHTS NGOS AND THE HUMAN RIGHTS OMBUDSMAN, WHO HAD LONG POINTED TO THE DILEMMA FACED BY THOSE WHO CONSIDERED THEMSELVES INNOCENT BUT FEARED COMING FORWARD FOR AN ABBREVIATED AND UNFAIR TRIAL, PRAISED THIS ACTION.

IN 1996, CONGRESS ESTABLISHED THE AD HOC PARDONS COMMISSION, CONSISTING OF THE HUMAN RIGHTS OMBUDSMAN AS CHAIRMAN, THE MINISTER OF JUSTICE, AND PRESIDENT FUJIMORI'S REPRESENTATIVE, FATHER HUBERT LANSSIERS. THE COMMISSION'S MANDATE WAS TO CONSIDER APPLICATIONS OF THOSE WHO BELIEVE THEMSELVES TO BE UNJUSTLY ACCUSED OF TERRORISM OR TREASON. TO DATE, 3,056 OF A TOTAL 3878 ACCUSED OF THESE CRIMES HAVE APPLIED FOR CLEMENCY, AND 535 HAVE RECEIVED THE COMMISSION'S RECOMMENDATION FOR PARDON. THE COMMISSION IS SET TO END ON DECEMBER 31, 1999.

PENDING BEFORE PRESIDENT FUJIMORI SINCE 1998 ARE 66 RECOMMENDATIONS FOR NEW PARDONS. DURING 1999, SEVEN DETAINEES WERE PARDONED, BRINGING THE TOTAL OF TERRORISM OR

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TREASON CONVICTS PARDONED AND RELEASED TO 469. OF THIS TOTAL, 21 HAD BEEN CONVICTED OF TERRORISM BY MILITARY COURTS; THE REMAINING 448 HAD BEEN CONVICTED IN CIVILIAN COURTS. HUMAN RIGHTS ORGANIZATIONS INDEPENDENTLY BROUGHT THE CASES OF PRISONERS THEY BELIEVE TO HAVE BEEN WRONGLY CHARGED WITH TERRORISM OR TREASON TO THE COURTS. DURING 1999, THE COURTS DECLARED INNOCENT AND FREED SOME 352 PRISONERS, BRINGING THE TOTAL OF ALL PRISONERS INCARCERATED AND EITHER PARDONED OR EXONERATED TO APPROXIMATELY 2,221.

IN MAY, THE CONGRESSIONAL BUDGET COMMITTEE REQUESTED THAT THE EXECUTIVE BRANCH DRAFT A PROPOSAL FOR COMPENSATING INNOCENTS RELEASED THROUGH THE PARDON COMMISSION'S PROGRAM. BY YEAR'S END, THE EXECUTIVE HAD/HAD NOT ACTED ON THIS REQUEST.

QF. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME OR CORRESPONDENCE

THE CONSTITUTION REQUIRES SECURITY FORCES TO HAVE A WRITTEN JUDICIAL WARRANT TO ENTER A PRIVATE DWELLING. THIS REQUIREMENT IS SUSPENDED IN THE EMERGENCY ZONES, WHERE SECURITY FORCES ROUTINELY CONDUCT SEARCHES WITHOUT WARRANTS.

THE HUMAN RIGHTS OMBUDSMAN AND HUMAN RIGHTS NGOS CONTINUE TO RECEIVE COMPLAINTS ABOUT INCIDENTS OF FORCED CONSCRIPTION OF YOUNG MEN, INCLUDING MINORS, BY SECURITY FORCES AS PART OF THE CONSTITUTIONALLY MANDATED SYSTEM OF COMPULSORY 2-YEAR MILITARY SERVICE. REPORTS CONTINUE OF BEATINGS, MISTREATMENT, AND SEVERE INJURY LEADING IN SOME CASES TO MURDER OR SUICIDE. FORCED CONSCRIPTION TENDS TO TARGET UNEDUCATED YOUTH IN REMOTE AREAS.

MILITARY AUTHORITIES INSIST THAT SUCH PRACTICES, EVEN IF TRUE, DO NOT REPRESENT OFFICIAL POLICY. ACCORDING TO THE CENTER FOR THE STUDY AND PROMOTION OF PEACE, THERE IS NO KNOWN CASE OF AN ALLEGATION OF FORCIBLE CONSCRIPTION AND MISTREATMENT IN WHICH THE INVESTIGATION HAS UPHELD THE VICTIM'S COMPLAINT. THE HUMAN RIGHTS OMBUDSMAN ESTABLISHED A NATIONWIDE, TOLL-FREE TELEPHONE LINE FOR USE BY ANY CITIZEN WHO MAY HAVE BEEN RECRUITED FORCIBLY OR WISHED TO REPORT SUCH AN INCIDENT. DESPITE NOVEMBER 1998 LEGISLATION REITERATING THE PROHIBITION AGAINST FORCED RECRUITMENT, THERE WERE XXXX CASES OF FORCED CONSCRIPTION REPORTED DURING 1999.

IN SEPTEMBER, PRESIDENT FUJIMORI SIGNED A LAW THAT MAKES MILITARY SERVICE VOLUNTARY, THOUGH REGISTRATION WILL REMAIN OBLIGATORY. THE LAW ALSO LIMITS THE TRAINING PERIOD TO 30 DAYS, FORGIVES PENALTIES AGAINST THOSE WHO HAVE NOT COMPLIED WITH THE MANDATORY SERVICE, AND PROHIBITS THE PRACTICE OF FORCED CONSCRIPTION. IN ADDITION, A MONTHLY STIPEND AND EDUCATIONAL OPPORTUNITIES OUTSIDE OF THE MILITARY ARE EXPECTED TO ATTRACT YOUNG MEN AND WOMEN TO A VOLUNTARY CAREER IN THE MILITARY. UNDER CERTAIN CIRCUMSTANCES THE

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PRESIDENT MAY, BY EXECUTIVE DECREE, RE-ESTABLISH MANDATORY SERVICE. THE LAW GOES INTO EFFECT IN JANUARY 2000, EXCEPT FOR THE FORGIVENESS OF PENALTIES, WHICH WAS EFFECTIVE IN SEPTEMBER. THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN WILL MONITOR IMPLEMENTATION TO ENSURE THE LAW IS BEING FOLLOWED BY THE MILITARY, AS PAST PROHIBITIONS OF FORCED CONSCRIPTION DID NOT PREVENT IT.

THE CONSTITUTION PROVIDES CITIZENS WITH THE RIGHT TO PRIVATE COMMUNICATION, BUT THE MEDIA, POLITICIANS, SOME GOVERNMENT OFFICIALS AND PRIVATE INDIVIDUALS CONTINUED TO REPORT THAT THE GOVERNMENT VIOLATED THIS RIGHT. IN APRIL, REPRESENTATIVES OF THE OMBUDSMAN'S OFFICE TRAVELED TO THE UNITED STATES TO INTERVIEW FORMER SIE AGENT LUISA MARGARITA ZANATTA MUEDAS, WHO HAD FLED THE COUNTRY IN 1998, AFTER ALLEGEDLY PROVIDING INFORMATION REGARDING SIE WIRETAPPING OPERATIONS. THEY RECOMMENDED THAT (1) PRESIDENT FUJIMORI PARDON LUISA ZANATTA; (2) THE PUBLIC MINISTRY INVESTIGATE THE WIRETAPPING; AND (3) CONGRESS BROADEN THE INVESTIGATION CONDUCTED BY THE CONGRESSIONAL DEFENSE COMMITTEE.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS ON OCTOBER 4, 1999 HEARD THE WIRETAPPING CASE FILED BY OPPOSITION CONGRESSWOMAN ANEL TOWNSEND AND 13 JOURNALISTS. THE COMMISSION CONCLUDED THAT...

OPPOSITION POLITICIANS HAVE REPORTED CREDIBLE INCIDENTS OF WIRETAPPING AND SURVEILLANCE. ALTHOUGH HIGH-LEVEL GOVERNMENT OFFICIALS HAVE DENIED GOVERNMENT INVOLVEMENT IN ANY OF THESE INCIDENTS, THERE HAS BEEN NO EFFORT TO INVESTIGATE THE ALLEGATIONS.

REPORTS OF FORCED CONSCRIPTION BY THE MRTA (MOST OF WHOSE SURVIVING MEMBERS ARE JAILED) AND THE GREATLY WEAKENED SENDERO LUMINOSO TERRORIST GROUPS HAVE DIMINISHED SIGNIFICANTLY.

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

QA. FREEDOM OF SPEECH AND PRESS

THE CONSTITUTION PROVIDES FOR FREEDOM OF SPEECH AND F THE PRESS. IN PRACTICE, HOWEVER, THE GOVERNMENT INHIBITS THE FULL EXERCISE OF THESE FREEDOMS. WHILE THE PRINT MEDIA REPRESENT A WIDE SPECTRUM OF OPINION, RANGING FROM AGGRESSIVE OPPOSITON TO THOSE FAVORING THE GOVERNMENT, THE BROADCAST MEDIA AND PORTIONS OF THE PRIT MEDIA PRACTICE A DEGREE OF SELF-CENSORSHIP IN ORDER TO AVOID PROVOKING GOVERNMENT RETRIBUTION. MANY IN THE PRESS REGARD THE FUJIMORI ADMINISTRATION'S HARASSMENT OF THE MEDIA AS A KEY TACTIC FOR WINNING THE PRESIDENT'S REELECTION IN APRIL 2000.

IN THE GREATER LIMA AREA ALONE, THERE ARE 15 DAILY NEWSPAPERS, 7 TELEVISION STATIONS, 65 RADIO STATIONS, AND THREE NEWS CHANNELS ON TWO COMMERCIAL CABLE SYSTEMS. THE

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GOVERNMENT OWNS ONE DAILY NEWSPAPER, ONE TELEVISION NETWORK, AND TWO RADIO STATIONS, NONE OF WHICH HAS A LARGE AUDIENCE.

INTERNATIONAL PRESS GROUPS AND THE ORGANIZATION OF AMERICAN STATES (OAS) HAVE REPORTED ON PRESS HARASSMENT IN PERU, AND ACCUSED THE GOPQS INTELLIGENCE SERVICES OF CONDUCTING SOME OF THE HARASSMENT. IN HIS 1999 ANNUAL REPORT, OAS SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION SANTIAGO CANTON DISCUSSES THESE ACCUSATIONS, CRITICIZES THE USE OF JUDICIAL PROCEEDINGS TO HARASS JOURNALISTS IN PERU, AND CITES CASES OF DEATH THREATS AIMED AT JOURNALISTS. IN 1999, FREEDOM HOUSE RANKED PERU "NOT FREE" IN TERMS OF PRESS FREEDOM, AND THE COMMITTEE TO PROTECT JOURNALISTS NAMED PRESIDENT FUJIMORI ONE OF THE WORLDQS "TOP TEN ENEMIES OF THE PRESS." THE U.S. HOUSE OF REPRESENTATIVES PASSED A SENSE OF THE HOUSE RESOLUTION IN OCTOBER DEPLORING, INTER ALIA, GOVERNMENT AVERSION TO A FREE PRESS. THE 1997 LOSS BY TELEVISION OWNER BARUCH IVCHER OF HIS STATION, THE 1998 DISMISSAL OF ANTI-GOVERNMENT JOURNALIST CESAR HILDEBRANDT, AND THE 1999 CLOSING OF THE FINANCIALLY STRICKEN OPPOSITION DAILY REFERENDUM DEMONSTRATE THE LIMITS OF PRESS FREEDOM.

ACCORDING TO LIMA MARKET RESEARCH FIRM SUPERVISORA DE MEDIOS Y PUBLICIDAD, IN THE FIRST HALF OF 1999 THE MINISTRY OF THE PRESIDENCY SPENT ALMOST \$18 MILLION ON ADVERTISING, MAKING IT AMONG PERUQS LARGEST ADVERTISERS. THE GOP ANNOUNCED IT WOULD SPEND SOME \$40 MILLION ON ADVERTISING IN 2000. OVER 80 PERCENT OF THE 1999 TOTAL WAS SPENT ON TELEVISION. MOST TELEVISION STATIONS ARE HEAVILY IN DEBT, AND PERUQS CURRENT LOW ECONOMIC GROWTH GREATLY REDUCED REVENUE FROM ADVERTISING PURCHASED BY COMMERCIAL CLIENTS.

THE RESULTING ECONOMIC DEPENDENCE LEAVES THEM SUSCEPTIBLE TO GOVERNMENT PRESSURE. MOST MEDIA OBSERVERS AGREE THAT THE BROADCAST MEDIA (WITH THE PROMINENT EXCEPTION OF SEVERAL CABLE CHANNELS), ON WHICH MOST PERUVIANS RELY FOR NEWS, REFRAINED FROM ANY CRITICAL REPORTING ON THE GOVERNMENT OVER THE LAST YEAR.

IN DECEMBER 1998, THE PRIVATELY OWNED CHANNEL 13 CANCELED THE PUBLIC AFFAIRS PROGRAM OF ANTI-GOVERNMENT JOURNALIST CESAR HILDEBRANDT, AND IN AUGUST 1999 DROPPED ITS NIGHTLY NEWSCAST, WHICH ALSO HAD BEEN FREQUENTLY CRITICAL OF THE GOVERNMENT. IN MAY, JOURNALIST NICHOLAS LUCAR RESIGNED FROM CHANNEL 4QS POPULAR SUNDAY PUBLIC AFFAIRS PROGRAM (REVISTA DOMINICAL) AFTER THE STATION BROADCAST AN INTERVIEW WITH SIN ADVISOR VLADIMIRO MONTESINOS IN WHICH, ACCORDING TO LUCAR, MONTESINOS DICTATED THE QUESTIONS AND RETAPED HIS OWN ANSWERS. CHANNEL 4 THEN CANCELED THE PROGRAM ENTIRELY. IN RELATED CASES, CHANNEL 13 REPORTER ROSANA CUEVA BROADCAST A TAPE OF PURPORTED CONVERSATIONS IN WHICH MONTESINOS TOLD CHANNEL 4 EXECUTIVE JOSE FRANCISCO CROUSILLAT HOW TO REPORT FAVORABLY ON THE PERUVIAN GOVERNMENT. IN BOTH CASES, JOURNALISTS CLAIMED THE GOVERNMENT HAD PRESSURED THE STATIONS TO SLANT THEIR COVERAGE; THOUGH THE STATION OWNERS



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DENIED IT.

THE OPPOSITION PRESS ALLEGED THE GOVERNMENT USED FINANCIAL PRESSURE TO FORCE THE OPPOSITION TABLOID DAILY REFERENDUM OUT OF BUSINESS ON OCTOBER 2 (REFERENDUMQS PRINCIPAL EDITORS WORKED FOR BARUCH IVCHER AT CHANNEL 2). ACCORDING TO THE PAPERQS EDITORS, THE PERUVIAN TAX AUTHORITY, SUNAT, DEMANDED THAT REFERENDUM STOP PUBLISHING IN EXCHANGE FOR RESCHEDULING TAX DEBT OF ITS PARENT COMPANY. REFERENDUM SHUT DOWN THE DAY BEFORE IT WAS TO PUBLISH AN ARTICLE ALLEGING THE EXISTENCE OF A PERUVIAN INTELLIGENCE SERVICE PLAN TO MURDER PERUVIAN HUMAN RIGHTS LAWYER HERIBERTO BENITEZ, AND WHILE IT WAS INVESTIGATING OTHER STORIES CRITICAL OF THE GOVERNMENT.

THE CAMPAIGN AGAINST BARUCH IVCHER AND HIS FORMER CHANNEL 2 EMPLOYEES ALSO CONTINUED, ALTHOUGH THE GOVERNMENT REISSUED IVCHER A PERUVIAN PASSPORT AND THE PRIME MINISTER IDENTIFIED IVCHER AS PERUVIAN IN OCTOBER. IN JUNE, FORMER STATION MANAGER JULIO SOTELO WAS SENTENCED TO FOUR YEARS IN PRISON FOR HAVING SIGNED A DOCUMENT TRANSFERRING SHARES OF THE STATION FROM IVCHER TO HIS DAUGHTERS. IN AN APRIL PRESS CONFERENCE AT FREEDOM HOUSE IN NEW YORK, IVCHER PRESENTED SUPPOSEDLY SECRET DOCUMENTS FROM 1997 SHOWING THAT THE SIN AND THE MILITARY INTELLIGENCE SERVICE (SIE) HAD PLANNED HARASSMENT AGAINST THE PRESS IN PERU. THE DOCUMENTS WERE LATER PRINTED IN LA REPUBLICA.

SPURIOUS ATTACKS BY THE TABLOID PRESS AGAINST THE POLITICAL OPPOSITION AND INDEPENDENT JOURNALISTS AND PAPERS CONTINUED UNABATED, ALLEGEDLY ORCHESTRATED BY INTELLIGENCE AGENTS. THE SIX TABLOIDS CARRYING THESE HAD ALMOST IDENTICAL HEADLINES AND TEXT, AND THE TEXT ALSO APPEARED ON THE INTERNET. AMONG OTHERS, TARGETS OF THE TABLOID PRESS INCLUDE GUSTAVO MOHME, ANGEL PAEZ, AND FERNANDO ROSPIGLIOSI. MANY INVESTIGATIVE REPORTERS ADMIT THEY OR THEIR EDITORS HELD BACK STORIES CRITICAL OF THE GOVERNMENT TO AVOID THE RISK OF RETALIATION.

IN APRIL 1999 THE ASSOCIATION IN DEFENSE OF TRUTH (APRODEV) LAUNCHED A WEB SITE WHICH POSTS THE TABLOIDSQ ARTICLES AND ADDITIONAL DUBIOUS INFORMATION ABOUT INDEPENDENT JOURNALISTS AND OPPOSITION FIGURES. APRODEVQS REPRESENTATIVE IN PERU IS AN ARGENTINE CITIZEN, AND FORMER ARGENTINE MILITARY OFFICIAL, HECTOR RICARDO FAISAL. THE ARGENTINE GOVERNMENT HAS ASKED THE GOP TO EXTRADITE FAISAL, BUT THE PERUVIAN SUPREME COURT REJECTED THE EXTRADITION REQUEST. JOURNALISTS BROUGHT A CASE AGAINST APRODEV, CLAIMING ITS WEB SITE WAS LIBELOUS AND ASKING THE COURT TO FORCE APRODEV TO CEASE AND DESIST. THE JUDGES INITIALLY ASSIGNED TO THE CASE ISSUED PRELIMINARY RULINGS IN FAVOR OF THEIR REQUEST, BUT WERE THEN REMOVED FROM THE CASE. THE NEWLY APPOINTED JUDGE REVERSED THEIR DECISIONS AND RULED THAT THE APRODEV SITE WAS NOT LIBELOUS BECAUSE IT SIMPLY REPRINTED INFORMATION AUTHORED AND PUBLISHED BY OTHER SOURCES. THE JOURNALISTS FILED AND LOST AN APPEAL OF THIS RULING.

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INDEPENDENT PERUVIAN PRESS ASSOCIATIONS ALSO HAVE ALLEGED HARASSMENT, INCLUDING DEATH THREATS. ON AUGUST 25, SEVERAL JOURNALISTS, ALONG WITH OPPOSITION CONGRESSWOMAN ANEL TOWNSEND, FORMED THE FREE PRESS AND DEMOCRACY ASSOCIATION TO PROMOTE FREEDOM OF EXPRESSION IN PERU. WITHIN TWO WEEKS OF THE ASSOCIATION'S FOUNDING, THE SUPREME MILITARY TRIBUNAL HAD BROUGHT A CASE AGAINST IT FOR ALLEGEDLY USING FAKE SUPPORTING DOCUMENTS IN REPORTING A STORY ON SIE ACTIONS TO GATHER INFORMATION ON POTENTIAL OPPOSITION PRESIDENTIAL CANDIDATES.

ACCORDING TO THE NATIONAL JOURNALISTS ASSOCIATION (ANP) AND THE INSTITUTE OF JOURNALISM AND SOCIETY (IPYS) JOURNALIST PROTECTION SYSTEM, LA RED, THERE WERE MANY CASES OF MEDIA HARASSMENT IN THE PROVINCES BY GOVERNMENT INSTITUTIONS (THE NATIONAL POLICE AND THE MILITARY), AND BY LOCAL POLITICAL AND COMMERCIAL ORGANIZATIONS. THE ANP REPORTED 99 CASES OF HARASSMENT IN THE FIRST NINE MONTHS OF 1999 -- OF THESE, 65 PERCENT WERE IN THE PROVINCES, 75 PERCENT WERE VIOLENT, AND 54 PERCENT WERE DIRECTED AT RADIO STATIONS. IN THE SAME PERIOD, LA RED RECEIVED 88 REPORTS OF HARASSMENT, 86 OF THEM FROM THE PROVINCES WHERE JOURNALISTS HAVE LESS SUPPORT AND VISIBILITY THAN IN LIMA. 57 PERCENT OF THE THREATS WERE AGAINST RADIO REPORTERS, REFLECTING THE INFLUENCE OF PROVINCIAL RADIO STATIONS.

MOST OF THESE INCIDENTS TOOK THE FORM OF VIOLENT THREATS, JUDICIAL PROCEEDINGS AND CHARGES OF DEFAMATION, AND CAME FROM LOCAL POLICE, MILITARY OFFICIALS, POLITICIANS AND BUSINESSMEN. THE INCIDENTS RESULTED IN FINES AGAINST THE JOURNALIST OR MEDIA OUTLET, OR IN RULINGS TO STOP PUBLISHING OR BROADCASTING. IN ONE CASE, THE NEWS DIRECTOR OF HUANCAYO RADIO STATION RADIO SENORIAL WAS SENTENCED TO TWO YEARS PROBATION AND FORBIDDEN FROM WORKING AS A JOURNALIST FOR TWO YEARS FOR DEFAMATION AFTER REPORTING THE RESULTS OF AN AUDIT REVEALING MANAGEMENT IRREGULARITIES BY TWO HUANCAYO CITY OFFICIALS. IN ANOTHER CASE, A REPORTER FOR LA REPUBLICA IN THE CITY OF JAEN RECEIVED DEATH THREATS IN SEPTEMBER FOR HAVING INVESTIGATED AND REVEALED THE IDENTITY OF A PREVIOUSLY UNKNOWN MEMBER OF THE COLINA GROUP WHO PARTICIPATED IN THE 1997 LA CANTUTA MURDERS OF EIGHT COLLEGE STUDENTS.

THE GOVERNMENT CONTINUES TO RESPECT ACADEMIC FREEDOM.

QB. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

THE CONSTITUTION PROVIDES FOR THE RIGHT OF PEACEFUL ASSEMBLY, AND THE AUTHORITIES GENERALLY RESPECT THIS RIGHT IN PRACTICE, EXCEPT IN THE DESIGNATED EMERGENCY ZONES WHERE IT IS SUSPENDED. PUBLIC MEETINGS IN PLAZAS OR STREETS REQUIRE ADVANCE PERMISSION, WHICH MAY BE DENIED ONLY FOR REASONS OF PUBLIC SAFETY OR HEALTH. MUNICIPAL AUTHORITIES USUALLY GRANTED PERMITS FOR DEMONSTRATIONS IN ALL NON-EMERGENCY ZONES.

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ON JUNE 5, OVER 3,000 PROTESTERS REPRESENTING LABOR UNIONS, STUDENT ORGANIZATIONS, AND OPPOSITION POLITICAL PARTIES DEMONSTRATED AGAINST CONGRESS' REMOVAL OF THREE CONSTITUTIONAL TRIBUNAL JUDGES (SEE SECTION 3). OVER 100 POLICE USED A POWERFUL WATER CANNON AND TEAR GAS TO DISPERSE THE MARCHERS. POLICE BRIEFLY DETAINED AN UNDETERMINED NUMBER OF PROTESTORS. (CHECKING ON WHETHER PROTESTERS HAD A PERMIT OR THREW ROCKS.)

IN 1998, THE HUMAN RIGHTS OMBUDSMAN OFFICIALS, ACTING IN RESPONSE TO VIOLENT CONFRONTATIONS BETWEEN PROTESTORS AND THE NATIONAL POLICE, BEGAN A DIALOGUE BETWEEN PROTEST GROUPS AND POLICE ON BASIC RULES OF CONDUCT. IN 1999, MONITORS FROM THE OMBUDSMAN'S OFFICE SERVED AS OFFICIAL OBSERVERS TO ENSURE OBSERVANCE OF THESE RULES BY POLICE AND PROTESTERS ALIKE. THE OMBUDSMAN'S OFFICE REPORTS THAT THESE MEASURES HAVE SIGNIFICANTLY REDUCED TENSIONS AND THE LEVEL OF ARBITRARY ARRESTS, WHILE DIMINISHING THE RISK OF DAMAGE TO PUBLIC AND PRIVATE PROPERTY. ACCORDING TO THE OMBUDSMAN, WITH SOME EXCEPTIONS, GROUPS WERE ABLE TO EXPRESS THEIR OPINIONS PUBLICLY, WHILE THE NATIONAL POLICE MAINTAINED THE PEACE IN A LAWFUL MANNER.

THE CONSTITUTION PROVIDES FOR FREEDOM OF ASSOCIATION, AND THE AUTHORITIES GENERALLY RESPECT THIS RIGHT IN PRACTICE.

**QC. FREEDOM OF RELIGION**

THE CONSTITUTION GUARANTEES FREEDOM OF RELIGION AND THE GOVERNMENT RESPECTS THIS RIGHT IN PRACTICE. WHILE THE CONSTITUTION ESTABLISHES THE SEPARATION OF CHURCH AND STATE, IT ACKNOWLEDGES THE CATHOLIC CHURCH AS "AN IMPORTANT ELEMENT IN THE HISTORICAL, CULTURAL, AND MORAL DEVELOPMENT" OF THE NATION. THE CORRESPONDING STATUS ACCORDED TO ROMAN CATHOLICISM IN PUBLIC LIFE CAN BE SEEN IN STATE REMUNERATION TO CERTAIN CLERGY AND CHURCH PERSONNEL, TAX EXEMPTIONS ON CLERGY SALARIES AND REAL ESTATE HOLDINGS, AND MANDATORY TEACHING ABOUT ROMAN CATHOLICISM IN PRIMARY AND SECONDARY SCHOOLS. CONVERSION TO OTHER RELIGIONS IS PERMITTED, AND MISSIONARIES ARE ALLOWED TO ENTER THE COUNTRY AND PROSELYTIZE.

AN NGO AND OTHER RELIGIOUS GROUPS HAVE CHALLENGED MANDATORY TEACHING OF ROMAN CATHOLICISM, AND THEIR CASE IS PENDING BEFORE THE CONSTITUTIONAL TRIBUNAL. THE CASE ALLEGES THAT THE MANDATORY CATECHISM REQUIREMENT VIOLATES THE RIGHTS OF NON-CATHOLIC STUDENTS TO PRACTICE THEIR PERSONAL RELIGIOUS CONVICTIONS. THEY HAVE ALSO CHALLENGED THE PRACTICE IN WHICH PARENTS MUST ASK SCHOOL DIRECTORS FOR PERMISSION TO EXCUSE THEIR CHILDREN FROM MANDATORY RELIGION COURSES AND THEN PAY FOR THEIR OWN TEACHER DURING THE ONE HOUR PER WEEK OF RELIGIOUS STUDY. APART FROM ITS PENDING COURT CASE, THE NGO HAS ALLEGED DISCRIMINATION AGAINST NON-CATHOLIC GROUPS WHO MUST PAY IMPORT DUTIES AND A SALES TAX ON BIBLES BROUGHT

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INTO PERU.

SENDERO LUMINOSO REJECTS RELIGION AND IN THE PAST HAS THREATENED AND INTIMIDATED RELIGIOUS WORKERS.

D.QFREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN QQTRAVEL, EMIGRATION, AND REPATRIATION

THE CONSTITUTION PROVIDES FOR THE RIGHT OF FREE MOVEMENT. THIS RIGHT IS SUSPENDED IN THE EMERGENCY ZONES, WHICH COVER 5.5 PERCENT OF THE COUNTRY'S TERRITORY AND WHERE THE SECURITY FORCES MAY DETAIN TRAVELERS AT ANY TIME. NEVERTHELESS, TRAVEL IN THESE ZONES IS NOT GENERALLY RESTRICTED. PASSENGERS ON PUBLIC TRANSPORTATION AND DRIVERS IN PRIVATE VEHICLES MAY BE CHECKED AT CONTROL POINTS THROUGHOUT THE COUNTRY.

SENDERO LUMINOSO OCCASIONALLY INTERRUPTS THE FREE MOVEMENT OF PEOPLE BY SETTING UP ROADBLOCKS IN SECTIONS OF THE UPPER HUALLAGA VALLEY.

ALTHOUGH THERE ARE NO GENERIC POLITICAL OR LEGAL CONSTRAINTS ON FOREIGN TRAVEL OR EMIGRATION, THE AUTHORITIES CAN LEGALLY RESTRICT PERSONS WITH PENDING CRIMINAL AND, IN SOME CASES, CIVIL CHARGES AGAINST THEM FROM LEAVING THE COUNTRY. REPATRIATES, BOTH VOLUNTARY AND INVOLUNTARY, ARE NOT TREATED DIFFERENTLY FROM OTHER CITIZENS.

THE CONSTITUTION PROHIBITS THE REVOCATION OF CITIZENSHIP. ACCORDING TO THE NATIONALITY LAW OF JANUARY 1996, HOWEVER, NATURALIZED PERUVIANS CAN LOSE THEIR CITIZENSHIP FOR, AMONG OTHER REASONS, COMMITTING CRIMES AGAINST THE STATE, NATIONAL DEFENSE, AND PUBLIC SECURITY, AS WELL AS FOR REASONS THAT AFFECT THE PUBLIC NATIONAL INTEREST. IN 1997, THE GOVERNMENT INVALIDATED THE CITIZENSHIP THROUGH NATURALIZATION OF ISRAELI BORN BARUCH IVCHER, WHO CONSEQUENTLY LOST CONTROL OF HIS PROPERTY, INCLUDING THE CHANNEL 2 TELEVISION STATION WHICH HAD AIRED STORIES OF GOVERNMENT ABUSE (SEE SECTION 2.A.). ALTHOUGH THE GOVERNMENT ISSUED IVCHER A NEW PERUVIAN PASSPORT, PRIVATE LEGAL PROCEEDINGS CONTINUED AGAINST HIM, HIS FAMILY, AND FORMER ASSOCIATES. AFTER LOSING A NUMBER OF APPEALS IN THE LOWER COURT SYSTEM, IVCHER TOOK HIS CASE TO THE IAHCR. THE IAHCR IS PROCEEDING WITH IVCHER'S CASE DESPITE THE FACT THAT PERU ANNOUNCED ITS WITHDRAWAL FROM THE COURT'S CONTENTIOUS JURISDICTION.

POLITICAL VIOLENCE IN THE 1980S AND EARLY 1990S RESULTED IN MASSIVE RURAL TO URBAN INTERNAL MIGRATION. MOST FAMILIES MIGRATED TO LIMA OR TO ONE OF SEVERAL OTHER DEPARTMENT CAPITALS. THE GOVERNMENT SPONSORED PROGRAM FOR THE RE-POPULATION AND DEVELOPMENT OF EMERGENCY ZONES (PAR) ESTIMATES THE TOTAL NUMBER OF DISPLACED PERSONS TO BE APPROXIMATELY 600,000.

WITH THE DECREASE IN TERRORIST VIOLENCE SINCE 1995, MANY

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DISPLACED PERSONS ARE RETURNING TO THEIR RURAL HOMES. PAR, WHICH PROVIDES A NUMBER OF BASIC SERVICES TO ACCELERATE RETURNEE SELF-SUFFICIENCY, HAS ASSISTED 18,000 TO RETURN AND ESTIMATES THAT ANOTHER 300,000 HAVE RETURNED ON THEIR OWN. NGOS DIFFER ON THE TOTAL NUMBER OF RETURNEES AND ESTIMATE GENERALLY THAT LESS THAN 100,000 HAVE RETURNED TO THEIR COMMUNITIES OF ORIGIN. NGOS AND PAR AGREE, HOWEVER, THAT ONLY 15 TO 20 PERCENT OF RETURNEES LEAVE AFTER RESETTLING IN THEIR ORIGINAL COMMUNITIES. AN EVEN HIGHER PERCENTAGE OF RETURNEES HAVE YET TO REESTABLISH THEMSELVES PERMANENTLY AND INSTEAD TRAVEL BACK AND FORTH BETWEEN THEIR ORIGINAL AND THEIR DISPLACEMENT HOMES.

THE MANY DISPLACED PERSONS WHO LACK BIRTH CERTIFICATES OR OTHER BASIC DOCUMENTATION TO ESTABLISH THEIR IDENTITY AND PLACE OF ORIGIN CAN REGISTER WITH A SPECIAL OFFICE WITHIN THE PAR. THIS OFFICE IN TURN PROVIDES APPLICANTS WITH DOCUMENTATION THAT CAN BE USED BOTH TO REQUEST PAR ASSISTANCE TO RETURN TO THEIR COMMUNITIES OF ORIGIN AND TO APPLY FOR A NATIONAL IDENTITY CARD.

THE APPROXIMATELY 5000 "REQUISITORIA DOS" -- PERSONS WHO CLAIMED THEY WERE FORCED TO AFFILIATE WITH TERRORISTS AND THOSE WRONGLY ACCUSED OF HAVING TERRORIST AFFILIATIONS WHO HAVE OUTSTANDING DETENTION ORDERS ISSUED AGAINST THEM -- STILL REMAIN IN LEGAL LIMBO. THERE STILL ARE INSUFFICIENT JUDICIAL RESOURCES TO DEAL WITH THE CASELOAD AND THE MINIMUM SENTENCE MANDATED BY LAW FOR SUCH TERRORIST AFFILIATIONS IS 20 YEARS. SOME JUDGES INVOLVED IN THIS PROCESS ARE ISSUING SENTENCES WELL BELOW THE MINIMUM REQUIRED AND THE APPEALS PROCESS HAS UPHOLD SEVERAL OF THESE LESS-THAN-MANDATORY SENTENCES.

THE GOVERNMENT COOPERATES WITH THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES IN GRANTING ASYLUM AND REFUGEE STATUS AND RECOGNIZES THE CATHOLIC MIGRATION COMMISSION AS THE OFFICIAL PROVIDER OF TECHNICAL ASSISTANCE TO REFUGEES AND APPLICANTS FOR ASYLUM. THE COMMISSION ALSO ADVISES PERUVIAN CITIZENS FEARING PERSECUTION AT HOME AND SEEKING ASYLUM ABROAD. SEVEN PERSONS WERE RECOGNIZED AS REFUGEES THIS YEAR BY THE GOVERNMENT: FIVE COLOMBIANS, ONE CUBAN AND ONE BULGARIAN. THERE ARE A TOTAL OF 758 REFUGEES IN PERU. REFUGEES ARE ALLOWED TO LIVE AND WORK WITHOUT RESTRICTIONS AND CAN APPLY FOR NATURALIZATION. THE STATUS OF REFUGEES IS REVIEWED ANNUALLY. THERE WERE NO REPORTS OF THE FORCED RETURN OF PERSONS TO COUNTRIES WHERE THEY FEARED PERSECUTION.

SECTION 3: RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

THE CONSTITUTION GUARANTEES THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT. VOTING IS BY SECRET BALLOT AND MANDATORY FOR ALL CITIZENS BETWEEN THE AGES OF 18 AND 70. MEMBERS OF THE ARMED FORCES AND THE POLICE, AS WELL AS FELONS, ARE

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INELIGIBLE TO VOTE. ARTICLE 177 OF THE CONSTITUTION ESTABLISHES THREE BODIES THAT, TOGETHER, ADMINISTER ELECTIONS: THE NATIONAL BOARD OF ELECTIONS (JNE); THE OFFICE OF ELECTORAL PROCESSES (ONPE); AND THE NATIONAL REGISTRY OF IDENTIFICATION AND CIVIL AFFAIRS (RENIEC). THE JNE SETS THE LEGAL PARAMETERS AND RULES ON ELECTION-RELATED DISPUTES AND CHALLENGES. ONPE ADMINISTERS THE ELECTIONS AND RENIEC ISSUES ELECTION IDENTITY DOCUMENTS.

IN ACCORD WITH THE 1993 CONSTITUTION, PRESIDENT FUJIMORI RAN FOR A SECOND 5-YEAR TERM IN 1995 AND WAS REELECTED OVER 12 OTHER CANDIDATES, RECEIVING 65 PERCENT OF THE VOTE. VOTERS ALSO ELECTED THE 120 MEMBERS OF THE UNICAMERAL CONGRESS UNDER A PROPORTIONAL REPRESENTATION SYSTEM; 72 SEATS ARE HELD BY MEMBERS OF FUJIMORI'S CAMBIO 90/NUEVA MAYORIA AND ALLIED POLITICAL MOVEMENTS AND THE REMAINING 48 MEMBERS REPRESENT 11 PARTIES. THE ELECTIONS LAW OF 1997 REQUIRES EACH OF THE PARTICIPATING POLITICAL PARTIES TO PREPARE ITS NATIONAL LIST OF RANKED CANDIDATES; THE 120 MEMBERS OF THE UNICAMERAL LEGISLATURE THEN ARE ELECTED FROM THESE PARTY LISTS IN PROPORTION TO THE NUMBER OF VOTES RECEIVED BY EACH PARTY.

IN 1996, CONGRESS PASSED A LAW INTERPRETING THE CONSTITUTION TO PERMIT FUJIMORI TO RUN FOR A THIRD TERM IN 2000. THE 1997 CONGRESS THEN REMOVED THREE MEMBERS OF THE CONSTITUTIONAL TRIBUNAL WHO VOTED AGAINST THIS INTERPRETATION, AND THE TRIBUNAL HAS SINCE BEEN UNABLE TO RULE ON ANY CONSTITUTIONAL ISSUES FOR LACK OF A QUORUM (SEE SECTION 1E.)

THE CONTROVERSY OVER PRESIDENT FUJIMORI'S ELIGIBILITY TO SEEK REELECTION CONTINUED WHEN THE JNE RULED IN 1998 THAT A NATIONAL REFERENDUM ON SEEKING A THIRD TERM COULD BE HELD ONLY IF 48 MEMBERS OF CONGRESS VOTED TO SUPPORT IT. THIS DECISION REVERSED AN EARLIER DECISION PERMITTING THE SIGNATURE DRIVE WITHOUT CONGRESSIONAL APPROVAL. AS MANY AS 1.4 MILLION SIGNATURES HAD BEEN GATHERED. THE REFERENDUM WAS EFFECTIVELY KILLED WHEN ONLY 45 MEMBERS VOTED FOR IT. THIS LEGISLATIVE ACTION WAS NOT SUBJECT TO JUDICIAL REVIEW. (JNE DECISION ON FUJIMORI'S CANDIDACY)

SEVERAL LEGAL ACTIONS UNDERTAKEN BY CERTAIN COURTS AND BY CONGRESS AFFECTED THE CANDIDACIES AND CAMPAIGNS OF POTENTIAL PRESIDENTIAL CONTENDERS. ON AUGUST 6, CONGRESS PASSED A LAW PROHIBITING CANDIDACIES FOR PRESIDENT OR CONGRESS OF ANYONE WHO HAD SERVED IN HIGH OFFICE AND HAD BEEN CHARGED WITH A CRIME AGAINST THE STATE. THE LAW IN EFFECT PRESUMES THE GUILT OF ANYONE CHARGED BUT NOT CONVICTED OF A CRIME AND REMOVES HIS RIGHT TO COMPETE FOR OFFICE.

THERE WERE NUMEROUS ALLEGATIONS OF GOVERNMENT-LINKED HARASSMENT OF POTENTIAL OPPOSITION PRESIDENTIAL CANDIDATES IN AUGUST AND SEPTEMBER. ON AUGUST 25, MEMBERS OF THE OPPOSITION-MINDED ASSOCIATION FOR A FREE PRESS PRESENTED DOCUMENTS PURPORTING TO SHOW INVOLVEMENT BY THE NATIONAL

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INTELLIGENCE SERVICE (SIN) IN A PRESS CAMPAIGN DEFAMING PRESIDENTIAL CANDIDATES ALBERTO ANDRADE AND LUIS CASTANEDA (SEE SECTION 2A). THE DIRECTOR OF MILITARY INTELLIGENCE (DINTE) REQUESTED THAT THE MILITARY SUPREME COURT INITIATE AN INVESTIGATION, AND THE MILITARY SUPREME COURT CONCLUDED THAT THE JOURNALISTS' DOCUMENTS HAD MISREPRESENTED MATERIAL FACTS. THE PROSECUTOR ALSO CONCLUDED THAT THE JOURNALISTS WERE RESPONSIBLE FOR CRIMES AGAINST THE PUBLIC AND ORDERED THE JNE AND THE PUBLIC MINISTRY TO INVESTIGATE THE JOURNALISTS ON THESE CHARGES. (RESULTS, IF ANY)

LIMA MAYOR ANDRADE FILED A COMPLAINT IN AUGUST AGAINST SIX LOCAL DAILY NEWSPAPERS ON GROUNDS THAT THEY HAD CONDUCTED FOR SEVERAL MONTHS A SYSTEMATIC DEFAMATION CAMPAIGN AGAINST HIM. ANDRADE REQUESTED THAT THE PENAL COURT SYSTEM INVESTIGATE. THE PENAL COURT REMANDED THE CASE TO THE PUBLIC MINISTRY AND ORDERED THE 13TH DISTRICT PROSECUTOR'S OFFICE INVESTIGATION TO PROCEED. THE OWNERS OF THE SIX DAILIES PETITIONED, HOWEVER, AND WON FROM THE SUPERIOR PUBLIC LAW COURT AN INJUNCTION BLOCKING THE INVESTIGATION. THE SUPERIOR COURT FURTHER PROHIBITED ANDRADE'S ATTORNEY FROM CONTINUING ANY LEGAL ACTION.

WOMEN AND SOME MINORITIES PARTICIPATE ACTIVELY IN GOVERNMENT AND POLITICS, ALTHOUGH THEY ARE RELATIVELY UNDERREPRESENTED.

THERE ARE 13 WOMEN IN THE 120-SEAT CONGRESS. ONE OF 15 CABINET MINISTERS AND SEVERAL VICE-MINISTERS ARE WOMEN, AS ARE THREE OF THE 33 JUDGES OF THE SUPREME COURT. IN 1998, MUNICIPAL ELECTIONS WERE HELD UNDER A NEW LAW THAT MANDATED THAT ALL PARTY CANDIDATE LISTS FOR CONGRESSIONAL AND MUNICIPAL ELECTIONS INCLUDE AT LEAST 25 PERCENT OF EACH SEX.

UNDER THESE GUIDELINES, WOMEN WERE ELECTED TO 24 PERCENT OF MUNICIPAL OFFICES, UP FROM EIGHT PERCENT IN 1998. IN CONJUNCTION WITH THE 2000 ELECTION CAMPAIGN, FOUR WOMEN'S ORGANIZATIONS UNDERTOOK NATIONWIDE PROGRAMS TO IDENTIFY FEMALE CANDIDATES AND PROMOTE WOMEN'S LOBBIES, INCREASE THE NUMBER OF FEMALE VOTERS, PREPARE A WOMAN'S POLITICAL AGENDA, AND TRAIN WOMEN WHO WERE ELECTED TO OFFICE.

PERUVIANS OF ASIAN DESCENT HOLD NUMEROUS LEADERSHIP POSITIONS IN GOVERNMENT; PRESIDENT FUJIMORI IS OF JAPANESE DESCENT AND THE PRESIDENT OF THE COUNCIL OF MINISTERS DURING MOST OF 1999 IS OF CHINESE DESCENT. SEVERAL MEMBERS OF CONGRESS HAVE MIXED ANCESTRY, AND A RECENT VICE PRESIDENT WAS A QUECHUA SPEAKER, AS WAS A RECENT MINISTER OF TRANSPORTATION AND COMMUNICATIONS. HOWEVER, IT IS RARE FOR INDIGENOUS PEOPLE, WHO MAKE UP MORE THAN ONE-THIRD OF THE POPULATION, TO REACH THE HIGHEST LEADERSHIP RANKS IN THE PUBLIC SECTOR. THE AFRO-PERUVIAN MINORITY, UNOFFICIALLY ESTIMATED AT EIGHT TO TEN PERCENT OF THE TOTAL POPULATION, IS NOT REPRESENTED AT ALL IN THE LEADERSHIP OF ANY BRANCH OF THE GOVERNMENT.

SECTION 4: GOVERNMENT ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED

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VIOLATIONS OF HUMAN RIGHTS

IN GENERAL, THE GOVERNMENT PERMITTED NUMEROUS NGO'S DEDICATED TO MONITORING AND ADVANCING HUMAN RIGHTS TO OPERATE FREELY. THE ICRC IS ABLE TO VISIT PRISONERS, INCLUDING THOSE HELD FOR TERRORISM-RELATED OFFENSES AT THE MAXIMUM SECURITY NAVAL PRISON AT CALLAO. THE HUMAN RIGHTS OMBUDSMAN HAS THE LEGAL MANDATE OF SUPERVISING PRISON FACILITIES DEFINED AS "PENITENTIARY CENTERS." OMBUDSMAN REPRESENTATIVES, HOWEVER, WERE DENIED ACCESS TO CERTAIN PRISONS SUCH AS EL CALLAO, BECAUSE THE MILITARY CLAIMED EL CALLAO WAS NOT A "PENITENTIARY CENTER." IN DATE, OMBUDSMAN OFFICIALS VISITED SOCABAYA PRISON IN AREQUIPA IN RESPONSE TO A PRISONER STRIKE. THE MINISTER OF JUSTICE SUBSEQUENTLY CRITICIZED THE OMBUDSMAN'S OFFICE TAKING WHAT HE BELIEVED WAS AN ANTI-GOVERNMENT STANCE.

MILITARY COMMANDERS OFTEN LIMITED THE FREEDOM OF LOCAL AND INTERNATIONAL HUMAN RIGHTS MONITORS TO INVESTIGATE ABUSES IN THE EMERGENCY ZONES. IN EARLY 1999, OFFICIALS FROM THE OMBUDSMAN WERE DENIED ACCESS TO THE SIXTH REGION MILITARY COMPOUND (CHECKING WITH DEFENSORIA, GINO COSTA).

GOVERNMENT, MILITARY, JUDICIAL AND POLICE OFFICIALS, AND SOME IN CONGRESS PUBLICLY ACCUSED NGOS' AND THE IACHR'S DEFENSE OF HUMAN RIGHTS AS BEING OVERPROTECTIVE OF CRIMINALS AND TERRORISTS TO THE DETRIMENT OF THEIR VICTIMS, ALTHOUGH THESE STATEMENTS DID NOT NECESSARILY REFLECT OFFICIAL GOP POLICY. DIALOGUE BETWEEN THE NON-GOVERNMENTAL HUMAN RIGHTS COMMUNITY AND CIVILIAN AUTHORITIES IMPROVED SLIGHTLY DURING 1999. COMMUNICATION BETWEEN THE HUMAN RIGHTS COMMUNITY (BOTH OFFICIAL AND NON-GOVERNMENTAL) AND THE MILITARY, HOWEVER, RANGED FROM STRAINED TO NON-EXISTENT.

MOST HUMAN RIGHTS NGOS ARE INDEPENDENT, THOROUGH AND GENERALLY OBJECTIVE. THE NATIONAL COORDINATOR FOR HUMAN RIGHTS (COORDINADORA), ESTABLISHED IN 1985, PROVIDES AN UMBRELLA ORGANIZATION FOR 50 HUMAN RIGHTS NGOS. THE COORDINADORA DOES NOT POLITICIZE ITS POSITIONS ON HUMAN RIGHTS ISSUES, ALTHOUGH ITS CONSTITUENT MEMBERS MAY DO SO IN THEIR OWN NAMES. A NUMBER OF OTHER HUMAN RIGHTS GROUPS ASSOCIATED WITH THE CATHOLIC CHURCH OR WITH GOVERNMENT INSTITUTIONS OPERATE ON THE FRINGES OF THE COMMITTEE.

THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN, CREATED IN 1996, CONTINUES TO GROW STEADILY IN STATURE AND REPUTATION. DURING 1999, THE OFFICE OF THE OMBUDSMAN OPENED 2 ADDITIONAL DECENTRALIZED OFFICES, ONE IN IQUITOS AND ANOTHER IN HUANCAYO. IT RECEIVES FUNDS FROM THE PERUVIAN GOVERNMENT AND FOREIGN GOVERNMENTS AND IS CONSIDERED ONE OF THE MOST INDEPENDENT AND EFFECTIVE FORCES IN THE COUNTRY FOR BRINGING JUSTICE TO PERU'S CITIZENS. THE OMBUDSMAN ENJOYS INVESTIGATIVE INDEPENDENCE AND THE ABILITY TO INFORM THE PUBLIC OF HIS CONCLUSIONS AND RECOMMENDATIONS. HE HAS NO ENFORCEMENT MECHANISM, HOWEVER, OTHER THAN MORAL SUASION.



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THE OMBUDSMAN'S ACHIEVEMENTS INCLUDE: HIS REPORTS AND RECOMMENDATIONS FOR STRENGTHENING DEMOCRACY AND THE RULE OF LAW; THE WORK OF THE PARDONS COMMISSION, WHICH HE CHAIRS (SEE SECTION 1.E); HIS RECOMMENDATIONS REGARDING ALLEGED ABUSES IN THE GOVERNMENT'S FAMILY PLANNING PROGRAM (SEE SECTION 5); AND HIS INFLUENCE ON THE CONGRESS TO ENACT LEGISLATIVE PROTECTIONS FOR WOMEN (SEE SECTION 5).

FOLLOWING LAST YEAR'S VISIT TO PERU, THE IACHR FACT-FINDING MISSION DELIVERED ITS CONCLUSIONS AND RECOMMENDATIONS TO THE GOVERNMENT. THOUGH THE GOVERNMENT WELCOMED THE COMMISSION'S RECOGNITION OF IMPROVEMENTS SUCH AS THE CREATION OF THE HUMAN RIGHTS OMBUDSMAN'S OFFICE AND THE ABOLITION OF FACELESS JUDGES, IT REJECTED THE COMMISSION'S NEGATIVE COMMENTS AND RECOMMENDATIONS FOR CHANGE. IN PARTICULAR, THE COMMISSION HAD CALLED ON THE GOVERNMENT TO RESTORE THE POWER OF THE CONSTITUTIONAL TRIBUNAL TO RULE ON CONSTITUTIONAL ISSUES BY REINSTATING THE THREE DISMISSED JUSTICES.

FOLLOWING SEVERAL MONTHS OF COMMISSION-GOVERNMENT DISCUSSIONS, THE GOVERNMENT ANNOUNCED IT WOULD NOT COMPLY WITH THE COMMISSION'S RECOMMENDATION. THE COMMISSION FORWARDED THE CASE TO THE INTER-AMERICAN COURT ON HUMAN RIGHTS.

ON JULY 8, PERU ANNOUNCED ITS DECISION TO UNILATERALLY WITHDRAW FROM THE JURISDICTION OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS (IACHR) AFTER THAT COURT DETERMINED THAT PERU HAD FAILED TO PROVIDE DUE PROCESS IN THE CASE OF FOUR CHILEAN TERRORISTS CONVICTED BY A MILITARY TRIBUNAL (SEE SECTION 1E.)

SECTION 5: DISCRIMINATION BASED ON RACE, SEX, RELIGION, Q Q DISABILITY, LANGUAGE, OR SOCIAL STATUS

THE CONSTITUTION PROVIDES FOR EQUAL RIGHTS FOR ALL CITIZENS, AND SPECIFICALLY PROHIBITS DISCRIMINATION BASED ON ETHNIC ORIGIN, RACE, SEX, LANGUAGE, RELIGION, OPINION OR ECONOMIC CONDITION. NEVERTHELESS, AND WHILE SIGNIFICANT PROGRESS IS BEING MADE IN A NUMBER OF AREAS, SOCIETAL DISCRIMINATION AGAINST WOMEN, PEOPLE WITH DISABILITIES, INDIGENOUS PEOPLE, AND RACIAL AND ETHNIC MINORITIES CONTINUES.

QWOMEN

VIOLENCE AGAINST WOMEN, INCLUDING RAPE AND SEXUAL, PHYSICAL AND MENTAL ABUSE OF WOMEN AND GIRLS, CONTINUES TO BE A CHRONIC PROBLEM. OFFICIAL NATIONWIDE STATISTICS ON DOMESTIC VIOLENCE ARE NOT AVAILABLE, BUT THE NATIONAL INSTITUTE OF STATISTICS ESTIMATES 37 PERCENT OF ADULT WOMEN LIVING IN LIMA AND CALLAO ARE ABUSED ANNUALLY. ONE NGO ESTIMATES 25,000 ANNUAL CASES OF PHYSICAL AND MENTAL ABUSE AGAINST WOMEN. IN 1998, LIMA'S POLICE STATION FOR WOMEN RECEIVED 3089 COMPLAINTS OF DOMESTIC VIOLENCE; ESTIMATES FOR THIS YEAR GO AS HIGH AS 5,000. HUMAN RIGHTS ORGANIZATIONS

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CONTINUE TO BELIEVE THAT A LARGE NUMBER OF DOMESTIC VIOLENCE CASES REMAIN UNREPORTED. OFFICIAL FIGURES FOR THE NUMBER OF ARRESTS AND CONVICTIONS IN ABUSE CASES ARE UNAVAILABLE, BUT NGO SOURCES CONTEND THE VAST MAJORITY OF REPORTED CASES DO NOT RESULT IN FORMAL CHARGES.

LEGISLATION CRIMINALIZED SPOUSAL ABUSE IN DECEMBER 1993, AND 1997 CHANGES IN THE LAW SIMPLIFIED PROCEDURES FOR REPORTING CASES OF DOMESTIC VIOLENCE MADE THE PROCESS LESS EXPENSIVE AND BROADENED THE JUDICIAL REMEDIES AVAILABLE. THE 1997 LAW GAVE JUDGES AND PROSECUTORS AUTHORITY TO PREVENT THE CONVICTED SPOUSE OR PARENT FROM RETURNING TO THE FAMILY'S HOME. THE LAW ALSO EXPANDED THE NUMBER OF PERSONS AUTHORIZED TO FILE COMPLAINTS OF DOMESTIC VIOLENCE TO INCLUDE THE VICTIMS' RELATIVES AND UNRELATED PERSONS LIVING IN THE HOME. WHEREAS PREVIOUSLY VICTIMS OF DOMESTIC VIOLENCE HAD TO HAVE A SPECIALIST IN LEGAL MEDICINE CERTIFY THEIR INJURIES AND TO PAY FOR THE REPORT, THE NEW LAW ELIMINATED THE REQUIRED FEE AND STIPULATED THAT THE REPORT MAY BE PREPARED BY ANY HEALTH PROFESSIONAL.

ACCORDING TO THE HUMAN RIGHTS OMBUDSMAN, MANY WOMEN CONTINUE TO COMPLAIN THAT POLICE OFFICERS REACT INDIFFERENTLY TO CHARGES OF DOMESTIC VIOLENCE, EVEN THOUGH THE NEW LAW CLEARLY REQUIRES ALL POLICE STATIONS TO RECEIVE SUCH COMPLAINTS. THE MINISTRY OF WOMEN'S ADVANCEMENT AND HUMAN DEVELOPMENT, WITH AN NGO, INITIATED IN 1998 A NATIONAL PROGRAM TO EDUCATE POLICE ABOUT DOMESTIC VIOLENCE AND TO TRAIN OFFICERS IN ALL POLICE STATIONS IN PROCESSING DOMESTIC VIOLENCE CASES. THE MINISTRY ALSO OPENED FACILITIES, STAFFED ENTIRELY BY WOMEN, THAT BRING TOGETHER IN ONE PLACE REPRESENTATIVES OF ALL GOVERNMENT INSTITUTIONS -- POLICE, PROSECUTORS, COUNSELORS AND PUBLIC WELFARE -- TO WHICH ABUSED WOMEN MIGHT HAVE RECOURSE.

ACCORDING TO THE HUMAN RIGHTS OMBUDSMAN, MANY RAPE VICTIMS CONTINUE TO COMPLAIN THAT COURT-APPOINTED MEDICAL EXAMINERS INAPPROPRIATELY DELVED INTO THEIR PAST SEXUAL HISTORIES. THEY ALSO ACCUSED JUDGES OF LOOKING MORE FAVORABLY ON RAPE VICTIMS WHO WERE VIRGINS PRIOR TO THE RAPE AND OF BELIEVING THAT A WOMAN WHO WAS RAPED SOMEHOW ENTICED HER ATTACKER. IN APRIL 1997, CONGRESS REPEALED A STATUTE WHEREBY CONVICTED RAPISTS COULD BE ABSOLVED OF THEIR CRIME IF THEY MARRIED THEIR VICTIM.

THE HUMAN RIGHTS OMBUDSMAN APPEALED TO CONGRESS TO AMEND THE CRIMINAL CODE TO PROVIDE GREATER PROTECTION TO VICTIMS OF SEXUAL VIOLENCE. THE OMBUDSMAN SOUGHT ELIMINATION OF THE PROVISION IN THE CODE THAT AFFORDS RAPISTS AND OTHER SEXUAL PREDATORS THE OPPORTUNITY TO AVOID PROSECUTION IF THEY REACH A PRIVATE SETTLEMENT WITH THEIR VICTIMS. IN ADDITION, THE OMBUDSMAN FAVORED RESCINDING THE PROVISION THAT SPECIFIES THAT, IN CASES OF SEXUAL ABUSE OF VICTIMS OVER 14 YEARS OF AGE, ONLY VICTIMS THEMSELVES MAY FILE A COMPLAINT. CONGRESS PASSED THIS BILL IN MAY 1999.

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IN 1998, THE HUMAN RIGHTS OMBUDSMAN PUBLISHED AN INITIAL REPORT ON FORCED STERILIZATION OF WOMEN IN PUBLIC HOSPITALS AND FAMILY PLANNING CLINICS. THE OMBUDSMAN RECOMMENDED: ALL CLIENTS OF FAMILY PLANNING PROGRAMS BE PROVIDED WITH COMPLETE INFORMATION ABOUT ALL THE ALTERNATIVES AVAILABLE; NO CLIENT BE PRESSURED INTO USING ANY PARTICULAR CONTRACEPTIVE METHOD; AND IF STERILIZATION WERE CHOSEN, THE PATIENT BE AFFORDED A 72-HOUR WAITING PERIOD DURING WHICH TO CONSIDER THAT OPTION, PRIOR TO A FINAL DECISION. THE MINISTRY OF HEALTH ACCEPTED THE OMBUDSMAN'S REPORT AND ALREADY HAS IMPLEMENTED MANY OF HIS RECOMMENDATIONS. DURING THE YEAR, THE OMBUDSMAN'S OFFICE RECEIVED ADDITIONAL COMPLAINTS OF ABUSES COMMITTED BY FAMILY PLANNING PERSONAL, RAISING THE OVERALL TOTAL TO 157 BETWEEN JUNE 1997 TO MAY 1999. THE OMBUDSMAN'S OFFICE CONTINUES TO INVESTIGATE THESE CASES.

THE CONSTITUTION PROVIDES FOR EQUALITY BETWEEN MEN AND WOMEN, AND THE 1995 AMENDMENTS TO THE EMPLOYMENT PROMOTION LAW, AS WELL AS OTHER LAWS RELATIVE TO MARRIAGE, DIVORCE, AND PROPERTY RIGHTS PROHIBIT DISCRIMINATION AGAINST WOMEN. IN 1997 CONGRESS PROHIBITED RACIAL AND SEXUAL DISCRIMINATION IN EMPLOYMENT ADVERTISEMENTS OR ANNOUNCEMENTS OF OTHER EDUCATIONAL TRAINING OPPORTUNITIES. LEGISLATION IN 1997 ALSO REPEALED THE OLD DISQUALIFICATION OF UNMARRIED OR CHILDLESS INDIVIDUALS FOR JUDGESHIPS IN THE FAMILY COURTS. IN 1998, CONGRESS STRIPPED HEALTH-CARE PROFESSIONALS IN POLICE HOSPITALS OF THEIR POLICE RANK AND ACCORDED THEM CIVILIAN STATUS ONLY. AS OVER 80 PERCENT OF SUCH PROFESSIONALS ARE WOMEN, THE HUMAN RIGHTS OMBUDSMAN CHALLENGED THE CONSTITUTIONALITY OF THE NEW LAW AND ITS IMPLEMENTING REGULATIONS, ON GROUNDS OF DISCRIMINATION. THE SUPERIOR COURT OF LIMA RULED AGAINST THE OMBUDSMAN, WHO THEN APPEALED THE CASE TO THE SUPREME COURT, WHICH HAS NOT REACHED A DECISION YET. IN OCTOBER, THE CONGRESS PASSED LEGISLATION PROTECTING PREGNANT WOMEN AGAINST ARBITRARY FIRING. ADDITIONAL LEGISLATION HAS BEEN PROPOSED TO PROHIBIT SEXUAL HARASSMENT AND TO RECOGNIZE BREASTFEEDING RIGHTS IN THE WORKPLACE.

TRADITIONAL ASSUMPTIONS AND MISCONCEPTIONS OFTEN IMPEDE ACCESS BY WOMEN TO LEADERSHIP ROLES IN BOTH THE PUBLIC AND PRIVATE SECTORS. BECAUSE OF SOCIETAL PREJUDICE AND DISCRIMINATION, WOMEN HISTORICALLY HAVE SUFFERED DISPROPORTIONATELY FROM THE COUNTRY'S PERVERSIVE POVERTY AND UNEMPLOYMENT. "MIBANCO," A PROGRAM SUPPORTED BY THE GOVERNMENT AND A CONSORTIUM OF NGOS (COPEME), REPRESENTS AN EFFORT TO IMPROVE WOMEN'S ABILITY TO GENERATE INCOME THROUGH PROVIDING CREDIT TO SMALL BUSINESSES STARTED BY ENTERPRISING WOMEN. MORE THAN 60 PERCENT OF ITS CLIENTS ARE WOMEN. AS OF SEPTEMBER 1999, MIBANCO'S LOAN PORTFOLIO REPRESENTED \$13.3 MILLION, WITH A TOTAL OF 37,600 CLIENTS BEING SERVED THROUGH 17 BRANCHES. THE CONSORTIUM OF NGOS THAT SUPPORT MICRO AND SMALL BUSINESSES (COPEME) IS PROVIDING USAID FUNDED TECHNICAL ASSISTANCE AND TRAINING TO "MIBANCO."

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QCHILDREN

THE GOVERNMENT PROVIDES FREE, COMPULSORY EDUCATION THROUGH SECONDARY SCHOOL. ROUGHLY SIX PERCENT OF CHILDREN BETWEEN THE AGES OF 6 AND 12, AND 17 PERCENT OF ADOLESCENTS AGED 12 TO 17, EITHER HAVE NEVER ATTENDED SCHOOL OR HAVE ABANDONED THEIR EDUCATION. SIXTEEN PERCENT OF CHILDREN AND 43 PERCENT OF ADOLESCENTS LIVE IN POVERTY OR EXTREME POVERTY. SCHOOL NONATTENDANCE IS HIGHEST IN RURAL AND JUNGLE AREAS AND AFFECTS GIRLS MORE THAN BOYS. IN 1998, CONGRESS AMENDED THE CHILD AND ADOLESCENT CODE TO PROVIDE PREGNANT SCHOOL-AGE GIRLS WITH THE RIGHT TO BEGIN OR CONTINUE ATTENDING SCHOOL.

THE MINISTRY OF WOMEN'S ADVANCEMENT AND HUMAN DEVELOPMENT HAS A CHILDREN'S BUREAU WHICH COORDINATES CHILD- AND ADOLESCENT-RELATED POLICIES AND PROGRAMS THROUGHOUT THE GOVERNMENT. IN THE NONGOVERNMENTAL SECTOR, THE NATIONAL INITIATIVE ON THE RIGHTS OF THE CHILD IS THE LARGEST NGO OF ITS KIND AND COORDINATES THE WORK OF 27 GROUPS CONCERNED WITH THE PROBLEMS OF CHILDREN ACROSS THE NATION.

AT THE GRASSROOTS LEVEL, 1,010 CHILDREN'S RIGHTS AND WELFARE PROTECTION OFFICES RECEIVE AND RESOLVE COMPLAINTS RANGING FROM PHYSICAL AND SEXUAL ABUSE TO CHILD SUPPORT, ABANDONMENT, AND UNDETERMINED GUARDIANSHIP. PROVINCIAL OR DISTRICT GOVERNMENTS OPERATE SOME 55 PERCENT OF THESE OFFICES, WHILE SCHOOLS, CHURCHES, AND OTHER NGOS RUN THE REMAINING 45 PERCENT. LAW STUDENTS STAFF MOST OF THE UNITS; ONLY THE OFFICES IN THE WEALTHIEST DISTRICTS OF THE COUNTRY HAVE PROFESSIONALLY TRAINED LAWYERS, PSYCHOLOGISTS, AND SOCIAL WORKERS. DURING 1997, THESE OFFICES RECEIVED A TOTAL OF 41,077. OF THIS TOTAL, 15,962 OF THEM WERE ALLEGATIONS FOR LACK OF CHILD SUPPORT AND 8,288 FOR VIOLENCE AGAINST CHILDREN. IN DECEMBER 1998, CONGRESS ENACTED NEW LEGISLATION STIPULATING THAT SETTLEMENTS ADJUDICATED BY THESE CHILDREN'S RIGHTS AND WELFARE PROTECTION OFFICES ARE LEGALLY BINDING AND HAVE THE FORCE OF JUDGMENTS ENTERED BY A COURT OF LAW.

VIOLENCE AGAINST CHILDREN AND THE SEXUAL ABUSE OF CHILDREN CONTINUED TO BE SERIOUS PROBLEMS. ESTIMATES SUGGEST ONLY 10 TO 20 PERCENT OF MISTREATMENT AND ABUSE ARE REPORTED BECAUSE MANY PERUVIANS BELIEVE THAT SUCH PROBLEMS SHOULD BE RESOLVED PRIVATELY. EVEN SO, IN LIMA ALONE, AT LEAST 400 RAPES OF MINORS ARE REPORTED ANNUALLY. IN 1996, THERE WERE 219,000 ORPHANS IN THE COUNTRY, OF WHOM 25,000 WERE ORPHANED FOR REASONS RELATED TO POLITICAL VIOLENCE. THERE WERE CONTINUING REPORTS OF BEATINGS AND OTHER MISTREATMENT OF ADOLESCENTS ON ARMY BASES, IN CONNECTION WITH THE FORCIBLE CONSCRIPTION OF YOUNGSTERS FOR MILITARY SERVICE. ACCORDING TO 1997 STATISTICS, 59.7 PERCENT OF ALL CHILDREN AND ADOLESCENTS UNDER 17 YEARS OF AGE LIVE UNDER THE POVERTY LINE. OF THESE, HALF LIVE IN RURAL AREAS. OF ALL CHILDREN AND ADOLESCENTS UNDER 17 YEARS OF AGE, 20 PERCENT LIVE IN

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EXTREME POVERTY. IN 1996, THE INFANT MORTALITY RATE WAS 43 PER 1,000, DOWN FROM 70 PER 1,000 IN 1992. HOWEVER, THERE ARE WIDE REGIONAL DISPARITIES: 30 PER 1,000 IN URBAN AREAS, COMPARED WITH 62 PER 1,000 IN RURAL AREAS. 1996 DATA SHOWED FOR THE FIRST TIME IN 12 YEARS A 30 PERCENT DECLINE IN PREVALENCE OF CHRONIC MALNUTRITION OF CHILDREN UNDER AGE 5 FROM 36.5 PERCENT TO 25.8 PERCENT. IN THOSE HOMES WHERE THE MOTHER HAS A LOW LEVEL OF EDUCATION, AS MANY AS 50 PERCENT OF THE CHILDREN SUFFER FROM CHRONIC MALNUTRITION AND 114 PER 1,000 DIE FROM PREVENTABLE CAUSES BEFORE THEY REACH AGE 5.

STREET CRIME COMMITTED BY CHILDREN AND ADOLESCENTS IS EXTREMELY HIGH, INCLUDING ROBBERY, PHYSICAL ASSAULT, AND VANDALISM, OFTEN CARRIED OUT BY GANGS. ACCORDING TO A CONGRESSIONAL COMMISSION WHICH INVESTIGATED THE CAUSES OF CRIME, SUCH GANGS CARRY OUT (75) PERCENT OF ALL ACTS OF VANDALISM, (29) PERCENT OF ASSAULTS, AND (23) PERCENT OF ROBBERIES.

IN 1998, THE GOVERNMENT ENACTED A SERIES OF MEASURES TO REDUCE STREET CRIME, INCLUDING PROSECUTING 16- TO 18-YEAR-OLD CRIMINAL GANG MEMBERS IN MILITARY COURTS AND SENTENCING THOSE CONVICTED TO NO LESS THAN 25 YEARS IN ADULT PRISONS. (RESULTS IN 1999)

PUBLIC FIGURES ESTIMATE AS MANY AS 1.2 MILLION CHILDREN WORK TO HELP SUPPORT THEIR FAMILIES. OF THIS TOTAL, SOME 500,000 ARE UNDER THE AGE OF 14, WHILE 700,000 ARE BETWEEN THE AGES OF 15 AND 17. NORMALLY, THERE ARE SHARP INCREASES IN THESE FIGURES DURING SCHOOL VACATIONS (SEE SECTION 6.D.).

QPEOPLE WITH DISABILITIES

THE CONSTITUTION PROVIDES THAT SEVERELY DISABLED PERSONS HAVE "THE RIGHT TO HAVE THEIR DIGNITY RESPECTED AND TO BE PROVIDED BY LAW WITH PROTECTION, CARE, REHABILITATION, AND SECURITY." IN 1998, NEW COMPREHENSIVE LEGISLATION ESTABLISHED THE NATIONAL COUNCIL FOR THE INTEGRATION OF PEOPLE WITH DISABILITIES AND SPECIFIED THE RIGHTS, ALLOWANCES, PROGRAMS, AND SERVICES THAT ARE ENSURED FOR THE DISABLED. THE STATUTE PROHIBITS DISCRIMINATION, MANDATES THAT PUBLIC SPACES BE BARRIER-FREE AND THAT BUILDINGS BE ARCHITECTURALLY ACCESSIBLE, AND PROVIDES FOR THE APPOINTMENT OF A SPECIALIST IN DISABILITY RIGHTS IN THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN.

AS YET, HOWEVER, THE GOVERNMENT AND NGO COMMUNITY ALIKE CONTINUED TO DEVOTE LITTLE ATTENTION TO THE DISABLED. (ACCORDING TO...) THE GOVERNMENT ALLOCATED ONLY (...) TO INTEGRATE THE DISABLED INTO THE ECONOMY. ALTHOUGH THE NEW LEGISLATION PROHIBITS DISCRIMINATION IN THE WORKPLACE, IT IS VAGUE REGARDING THE SOURCE OF FUNDS TO PAY FOR THE HUMAN ASSISTANCE, TECHNOLOGICAL SUPPORT, AND ENVIRONMENTAL ADAPTATIONS THAT OFTEN ARE NECESSARY TO ENABLE DISABLED WORKERS TO BE PRODUCTIVE. AS A RESULT, DISABLED INDIVIDUALS

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AND THE PRIVATE AGENCIES SERVING THEM GENERALLY MUST RELY ON THE PUBLIC'S CHARITY AND ON FUNDING FROM INTERNATIONAL ORGANIZATIONS.

THE 1993 CENSUS COUNTED 288,526 DISABLED PERSONS, OR 1.3 PERCENT OF THE POPULATION, BUT THE MINISTRY OF HEALTH AND THE PAN AMERICAN HEALTH ORGANIZATION ESTIMATE THE FIGURES AS MANY AS 3 MILLION, OR 13.8 PERCENT. THE GOVERNMENT, IN CONJUNCTION WITH THE COUNTRY'S HOSPITALS, PLANS TO IMPLEMENT A NATIONAL REGISTER OF DISABLED PERSONS. (STATUS)

SINCE THE PRIVATIZATION OF THE SOCIAL SECURITY AND NATIONAL HEALTH INSURANCE SYSTEMS, IT HAS BEEN DIFFICULT FOR MANY DISABLED PERSONS TO OBTAIN COVERAGE BECAUSE INSURANCE CARRIERS TYPICALLY BELIEVE THAT A SEVERE DISABILITY NECESSARILY INCREASES A PERSON'S VULNERABILITY TO ACCIDENTS AND ILLNESSES. (ANY CHANGE)

CONSTRUCTION REGULATIONS HAVE LONG MANDATED BARRIER-FREE ACCESS BY PERSONS WITH PHYSICAL DISABILITIES TO PUBLIC SERVICE BUILDINGS, BUT LITTLE EFFORT HAS BEEN MADE TO IMPLEMENT THIS PROVISION. NOR DO ACCOMMODATIONS EXIST, SUCH AS ACCESSIBLE POLLING STATIONS, INTERPRETERS FOR THE DEAF IN GOVERNMENT SERVICE OFFICES, AND BRAILLE OR RECORDED VERSIONS OF THE CONSTITUTION, WHICH WOULD PERMIT THE DISABLED TO PARTICIPATE IN THE BASIC PROCESSES OF DEMOCRACY AND CITIZENSHIP.

ACCORDING TO OFFICIALS OF THE INSTITUTE FOR SOCIAL SECURITY, LESS THAN 1 PERCENT OF SEVERELY DISABLED CITIZENS ACTUALLY WORK. AMONG THOSE WHO DO, OCCUPATIONS SUCH AS TELEPHONE SWITCHBOARD OPERATION AND MASSAGE, IN THE CASE OF THE BLIND, PREDOMINATE. SOME PRIVATE COMPANIES HAVE INITIATED PROGRAMS TO HIRE AND TRAIN THE DISABLED, AND A PRIVATE FOUNDATION PROVIDES SMALL LOANS TO THE HANDICAPPED FOR THE PURPOSE OF STARTING THEIR OWN BUSINESSES.

IN GENERAL, DISABLED PERSONS CONTINUED TO FACE DISCRIMINATION BY POTENTIAL EMPLOYERS. FOR EXAMPLE, THE BASIC STATUTE GOVERNING THE POLICIES AND PROCEDURES OF THE JUDICIAL BRANCH SPECIFICALLY PROHIBITS THE BLIND FROM SERVING AS JUDGES OR PROSECUTORS, A DISCRIMINATORY PROVISION THAT THE NATIONAL JUDICIARY COUNCIL HAS INTERPRETED TO APPLY TO ALL PERSONS WITH DISABILITIES. (STILL TRUE?) IN ADDITION, SEDAPAL, LIMA'S WATER UTILITY, DISMISSED ALL ITS BLIND SWITCHBOARD OPERATORS, OSTENSIBLY AS PART OF A NONDISCRIMINATORY, ACROSS-THE-BOARD COST-CUTTING MEASURE. HOWEVER, THE CHIEF ADVOCATE FOR THE DISABLED IN CONGRESS REPORTS THAT ALL THE BLIND OPERATORS IMMEDIATELY WERE REPLACED BY YOUNGER, SIGHTED RECRUITS. PEOPLE WITH DISABILITIES HAVE RECENTLY BEGUN TO ORGANIZE AND DEMAND EQUAL RIGHTS AND OPPORTUNITIES AS A MINORITY.

QINDIGENOUS PEOPLE

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THE CONSTITUTION PROHIBITS DISCRIMINATION BASED ON RACE AND PROVIDES FOR THE RIGHT OF ALL CITIZENS TO SPEAK THEIR NATIVE LANGUAGE AND THE GOVERNMENT IS TRYING TO BETTER MEET THE NEEDS OF INDIGENOUS PEOPLE. NEVERTHELESS, THE LARGE INDIGENOUS POPULATION STILL FACES PERVASIVE DISCRIMINATION AND SOCIAL PREJUDICE.

MANY FACTORS IMPEDE THE ABILITY OF INDIGENOUS PEOPLE TO PARTICIPATE IN, AND FACILITATE THEIR DELIBERATE EXCLUSION FROM, DECISION-MAKING DIRECTLY AFFECTING THEIR LANDS, CULTURE, TRADITIONS, AND THE ALLOCATION OF NATURAL RESOURCES. THE 1993 CONSTITUTION ELIMINATED PREVIOUS CONDITIONS THAT GUARANTEED THAT INDIGENOUS COMMUNITY LANDS COULD NOT BE SOLD FOR INDEBTEDNESS. PERVASIVE DISCRIMINATION AND SOCIAL PREJUDICE INTENSIFY FEELINGS OF INFERIORITY AND SECOND-CLASS CITIZENSHIP. MANY INDIGENOUS PEOPLE LACK SUCH BASIC DOCUMENTS AS A BIRTH CERTIFICATE OR A VOTER'S REGISTRATION CARD THAT WOULD NORMALLY IDENTIFY THEM AS FULL CITIZENS AND ENABLE THEM TO PLAY THEIR PART IN SOCIETY.

PERUVIANS OF INDIAN DESCENT WHO LIVE IN THE ANDEAN HIGHLANDS SPEAK AYMARA AND QUECHUA, WHICH ARE RECOGNIZED AS OFFICIAL LANGUAGES. THEY ARE ALSO ETHNICALLY DISTINCT FROM THE DIVERSE INDIGENOUS GROUPS WHO LIVE ON THE EASTERN SIDE OF THE ANDES AND IN THE TROPICAL LOWLANDS ADJACENT TO THE AMAZON BASIN. A 1998 REGULATION STIPULATING THAT ALL SCHOOL TEACHERS MUST HAVE A PROFESSIONAL TEACHING CERTIFICATION INITIALLY CAUSED FEARS THAT UNCERTIFIED INDIGENOUS TEACHERS WOULD LOSE THEIR JOBS; HOWEVER, DUE TO THE UNWILLINGNESS OF MANY CERTIFIED TEACHERS TO WORK IN RURAL AREAS, UNCERTIFIED AYMARA AND QUECHUA SPEAKING TEACHERS CONTINUE ON THE JOB.

THE NATIVE POPULATION OF THE PERUVIAN AMAZON, WHICH THE GOVERNMENT ESTIMATES AT A LITTLE UNDER 200,000 AND ORGANIZATIONS REPRESENTING THE NATIVE COMMUNITIES ESTIMATE AT BETWEEN 200,000 AND 300,000, FACES PERVASIVE DISCRIMINATION AND SOCIAL PREJUDICE. IN ACCORDANCE WITH LOCAL CULTURE AND TRADITIONS, MOST OF THE NATIVE COMMUNITIES HAVE A SPIRITUAL RELATIONSHIP WITH THEIR LAND, AND THE CONCEPT OF LAND AS A MARKETABLE COMMODITY IS ALIEN TO THEM.

ACCORDING TO THE DIRECTOR OF THE HUMAN RIGHTS OMBUDSMAN'S NATIVE COMMUNITIES PROGRAM, THE LAND OF PERU'S NATIVE POPULATION IS PROTECTED ONLY INsofar AS THE LAW PREVENTS THE TITLE FROM BEING REASSIGNED TO A NONINDIGENOUS TENANT WHO HAS LIVED ON THESE LANDS FOR A SUBSTANTIAL AMOUNT OF TIME. THE MARKETING AND OUTRIGHT SALE OF THE LANDS IS NO LONGER PROHIBITED, HOWEVER.

OTHER FACTORS CONTRIBUTE TO THE MARGINALIZATION OF INDIGENOUS PEOPLE IN SOCIETY. POOR TRANSPORTATION AND COMMUNICATIONS INFRASTRUCTURE IN THE HIGHLANDS AND IN THE AMAZON JUNGLE REGION MAKES POLITICAL MOBILIZATION AND ORGANIZATION DIFFICULT. THE GEOGRAPHIC ISOLATION OF MUCH OF

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THE INDIGENOUS POPULATION AND THE CENTRALIZATION OF GOVERNMENT ACTION IN LIMA FURTHER LIMIT THE ACCESS AND PARTICIPATION OF INDIGENOUS PEOPLE IN PERUVIAN SOCIETY.

IN MANY JUNGLE AREAS, ENCROACHMENT ON NATIVE LANDS COMES FROM A VARIETY OF SOURCES--COLONISTS AND COCA GROWERS IN SEARCH OF LIVELIHOOD AND PROFIT, TERRORISTS IN SEARCH OF NEW BASES OF OPERATION, AND BUSINESS INTERESTS IN SEARCH OF EXPLOITABLE NATURAL RESOURCES. FOR EXAMPLE, THERE ARE APPROXIMATELY 25 OIL EXPLORATION FIELDS AND NUMEROUS GOLD MINING OPERATIONS ON INDIGENOUS LANDS IN THE AMAZON REGION.

THE 45,000 AGUARUNA AND THE 5,000 HUAMBISA PEOPLE WHO INHABIT THE FRONTIER AREA WHERE THE 1995 PERU-ECUADOR BORDER CONFLICT TOOK PLACE ARE JUST TWO OF MANY INDIGENOUS GROUPS THAT COMPLAIN ABOUT INTOLERABLE LIVING CONDITIONS AND INACCESSIBLE PUBLIC SERVICES.

IN THE SAME REGION, ALONG THE PASTAZA RIVER, THE 4,700 ACHUAR PEOPLE LIVE IN 36 COMMUNITIES, ONLY 12 OF WHICH HAVE TITLE TO THEIR LAND. IN ADDITION, THE ACHUAR ARE FIGHTING WHAT THEY FEAR MAY BE A LOSING BATTLE AGAINST AN INCURSION BY OIL EXPLORATION AND DRILLING INTERESTS, AS WELL AS AGAINST A GOVERNMENT-SPONSORED INFLUX OF COLONISTS. UNDER PERUVIAN LAW, TITLE TO LAND DOES NOT INCLUDE MINERAL OR OTHER SUB-SOIL RIGHTS; THIS CONDITION LEADS TO CONFLICTS BETWEEN MINING INTERESTS AND INDIGENOUS COMMUNITIES. ABOUT 20 INDIGENOUS GROUPS IN THE AMAZON BASIN HAVE REQUESTED COMMUNAL RESERVES TO HUNT WILD GAME ALLOWED UNDER PERUVIAN LAW, BUT THIS REQUEST HAS NOT BEEN APPROVED BY THE GOP.

THE TWO MAIN NON-GOVERNMENTAL ORGANIZATIONS THAT REPRESENT THE INTERESTS OF THE NATIVE POPULATION OF THE PERUVIAN AMAZON ARE THE INTER-ETHNIC ASSOCIATION FOR THE DEVELOPMENT OF THE PERUVIAN JUNGLE (AIDSEP) AND THE CONFEDERATION OF AMAZONIAN NATIONALITIES OF PERU (CONAP). BOTH ORGANIZATIONS HAVE RECENTLY JOINED THE PERMANENT CONFERENCE OF INDIGENOUS PEOPLES, AN UMBRELLA BODY DESIGNED TO COORDINATE THE ACTIVITIES AND UNIFY THE VOICE OF THE COUNTRY'S INDIGENOUS POPULATION. BOTH AIDSEP AND THE CONAP ARE CRITICAL OF THE 1995 LAND LAW, WHICH PERMITS AMAZONIAN LAND TO BE BOUGHT AND SOLD IF NO ONE IS LIVING ON IT OR OTHERWISE MAKING USE OF IT. HOWEVER, CONAP BELIEVES THAT MINING AND OTHER DEVELOPMENT OPERATIONS ARE INEVITABLE AND, THEREFORE, WANTS NATIVE COMMUNITIES TO SHARE APPROPRIATELY THE BENEFITS OF THAT DEVELOPMENT. AIDSEP REMAINS OPPOSED TO TERRITORIAL ENCROACHMENTS BY GOVERNMENT, COMMERCIAL, AND OTHER INTERESTS.

ALTHOUGH INDIGENOUS RIGHTS ADVOCATES PROTEST THE LOW PRIORITY ASSIGNED BY THE GOVERNMENT TO THE SOCIOECONOMIC CONDITION OF INDIGENOUS PEOPLE AND THE LACK OF CONSULTATION REGARDING MATTERS AFFECTING THEIR WELFARE, THE HUMAN RIGHTS OMBUDSMAN BELIEVES THAT CHANGE HAS TAKEN PLACE IN THE ATTITUDE OF THE GOVERNMENT. THE NEWLY FORMED INDIGENOUS AFFAIRS COMMISSION IS TRYING TO COORDINATE STATE SERVICES TO



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BETTER MEET THE NEEDS OF INDIGENOUS PEOPLE. THE COMMISSION, WHICH IS CHAIRED BY THE MINISTRY OF WOMEN'S ADVANCEMENT AND HUMAN DEVELOPMENT, HAS AMONG ITS MEMBERS OFFICIALS FROM A VARIETY OF RELEVANT MINISTRIES AS WELL AS FOUR REPRESENTATIVE OF THE INDIAN PEASANT POPULATION IN THE HIGHLAND AND COASTAL AREAS AND THE NATIVE POPULATION OF THE AMAZON JUNGLE. THE PERUVIAN CONGRESS HAS CREATED AN INDIGENOUS AFFAIRS COMMITTEE, WHICH IS NOT YET FUNCTIONING.

SENDERO LUMINOSO CONTINUED TO BE A LEADING VIOLATOR OF INDIGENOUS PEOPLE'S HUMAN RIGHTS. ISOLATED PRIMARILY ALONG THE ENE RIVER IN JUNIN DEPARTMENT, SENDERO LUMINOSO CONTINUED TO COERCE INDIGENOUS ASHANINKAS TO JOIN ITS RANKS. THIS PRACTICE RESULTED IN FURTHER INTERNAL DISPLACEMENT IN THIS REGION.

NATIONAL/RACIAL/ETHNIC MINORITIES

THE POPULATION INCLUDES SEVERAL RACIAL MINORITIES, THE LARGEST OF WHICH ARE PERSONS OF ASIAN AND AFRICAN DESCENT. AFRO-PERUVIANS, WHO TEND TO BE CONCENTRATED ALONG THE COAST, OFTEN FACE DISCRIMINATION AND SOCIAL PREJUDICE, AND THEY ARE AMONG THE POOREST GROUPS IN THE COUNTRY.

AFRO-PERUVIANS GENERALLY DO NOT HOLD LEADERSHIP POSITIONS IN GOVERNMENT, BUSINESS, OR THE MILITARY. BOTH THE NAVY AND THE AIR FORCE ARE WIDELY BELIEVED TO FOLLOW UNSTATED POLICIES THAT EXCLUDE BLACKS FROM THE OFFICER CORPS. THE LAW PROHIBITS EMPLOYMENT ADVERTISEMENTS IN THE NEWSPAPERS FROM SPECIFYING THE COLOR OF THE CANDIDATES SOUGHT, BUT EMPLOYERS OFTEN FIND DISCREET WAYS TO RELEGATE BLACKS TO LOW-PAYING SERVICE JOBS.

IN 1998, CONGRESS PASSED LEGISLATION PROHIBITING DISCRIMINATION OF ANY KIND BY ANY CONSUMER BY PLACES OF BUSINESS OPEN TO THE PUBLIC. THE LAW PASSED OWING TO STRONG SUPPORT FROM COMMISSION ON CONSUMER PROTECTION OF THE NATIONAL INSTITUTE FOR THE DEFENSE OF FREE MARKET COMPETITION AND THE PROTECTION OF INTELLECTUAL PROPERTY (INDECOPI), WHOSE ORDER TO NIGHTCLUBS NOT TO EXCLUDE BLACK PATRONS HAD BEEN OVERTURNED BY A DISTRICT COURT. THE NEW LEGISLATION HAS NOT YET SIGNIFICANTLY DETERRED DISCRIMINATORY PRACTICES.

ACCORDING TO TWO ORGANIZATIONS SPECIALIZING IN THE RIGHTS OF PERSONS OF AFRICAN DESCENT, POLICE CONTINUE TO DETAIN PERSONS OF AFRICAN DESCENT ON SUSPICION OF HAVING COMMITTED CRIMES, ON THE BASIS OF THEIR SKIN COLOR. SIMILARLY, POLICE RARELY ACT ON COMPLAINTS OF CRIMES AGAINST AFRO-PERUVIANS.

ALTHOUGH PERUVIANS OF ASIAN DESCENT HAVE HISTORICALLY SUFFERED DISCRIMINATION, THEIR SOCIAL STANDING HAS IMPROVED MARKEDLY DURING THE PAST DECADE, AS PERU HAS SOUGHT TO EMULATE ASIA'S EARLIER ECONOMIC GROWTH AND, AS THE ASIAN COMMUNITY, HAS ACHIEVED FINANCIAL SUCCESS. BESIDES

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PRESIDENT FUJIMORI, WHO IS OF JAPANESE DESCENT, MANY OTHER PERUVIANS OF ASIAN DESCENT HOLD LEADERSHIP POSITIONS IN BUSINESS AND GOVERNMENT.

SECTION 6: WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

ABOUT FIVE PERCENT OF THE TOTAL WORK FORCE OF 8.5 MILLION BELONG TO ORGANIZED LABOR UNIONS. MORE THAN HALF OF ALL WORKERS PARTICIPATE IN THE INFORMAL SECTOR OF THE ECONOMY. WORKERS ARE NOT REQUIRED TO SEEK AUTHORIZATION PRIOR TO FORMING A TRADE UNION, NOR CAN EMPLOYERS LEGALLY CONDITION EMPLOYMENT ON UNION MEMBERSHIP OR NONMEMBERSHIP. HOWEVER, LABOR RIGHTS ADVOCATES CLAIM THAT MANY WORKERS ARE RELUCTANT TO ORGANIZE FOR FEAR OF DISMISSAL.

UNIONS REPRESENT A CROSS SECTION OF POLITICAL OPINION. ALTHOUGH SOME UNIONS HAVE TRADITIONALLY BEEN ASSOCIATED WITH POLITICAL GROUPS, THE LAW PROHIBITS UNIONS FROM ENGAGING IN EXPLICITLY POLITICAL, RELIGIOUS, OR PROFIT MAKING ACTIVITIES. THE SEVERAL UNION LEADERS WHO RAN UNSUCCESSFULLY FOR CONGRESS IN 1995 ALL DID SO IN THEIR OWN NAMES, WITHOUT OFFICIAL UNION SPONSORSHIP. NEVERTHELESS, IT IS BELIEVED THAT SOME UNION ACTIVISTS WHO RUN FOR PUBLIC OFFICE RECEIVE UNOFFICIAL BACKING FROM THEIR UNIONS.

IN 1995 AND 1996 CONGRESS PASSED LEGISLATION AMENDING THE 1992 EMPLOYMENT PROMOTION LAW, WHICH ALL THE MAIN UNION CONFEDERATIONS PUBLICLY CRITICIZED FOR RESTRICTING THE RIGHTS OF WORKERS, INCLUDING THE FREEDOM TO BARGAIN COLLECTIVELY. UNIONS ALSO COMPLAINED THAT THE NEW LEGISLATION ELIMINATED THE RIGHT OF DISMISSED WORKERS TO COMPULSORY REINSTATEMENT, IF IT WAS PROVEN THAT THEY HAD BEEN DISMISSED UNJUSTLY. IN PRACTICE, THE LEGISLATION CONTINUED TO HAVE A NEGATIVE IMPACT ON THE RIGHT OF ASSOCIATION BY MAKING IT EASIER FOR COMPANIES TO FIRE WORKERS INVOLVED IN UNION ACTIVITIES.

THERE ARE NO RESTRICTIONS ON THE AFFILIATION OF LABOR UNIONS WITH INTERNATIONAL BODIES. SEVERAL MAJOR UNIONS AND LABOR CONFEDERATIONS BELONG TO INTERNATIONAL LABOR ORGANIZATIONS SUCH AS THE INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS, ITS AFFILIATED TRADE SECRETARIATS AND REGIONAL BODIES.

QB. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

THE CONSTITUTION RECOGNIZES THE RIGHT OF PUBLIC AND PRIVATE SECTOR WORKERS TO ORGANIZE AND BARGAIN COLLECTIVELY BUT SPECIFIES THAT THIS RIGHT MUST BE EXERCISED IN HARMONY WITH BROADER SOCIAL OBJECTIVES. LABOR REGULATIONS PROMULGATED PRIOR TO ADOPTION OF THE 1993 CONSTITUTION PROVIDE THAT WORKERS MAY FORM UNIONS ON THE BASIS OF THEIR OCCUPATION, EMPLOYER AFFILIATION, OR GEOGRAPHIC TERRITORY. THE

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REGULATIONS PROHIBIT TEMPORARY, PROBATIONARY, APPRENTICE, AND MANAGEMENT EMPLOYEES FROM UNION MEMBERSHIP.

ACCORDING TO THE REGULATIONS, UNION OFFICIALS MUST BE ACTIVE MEMBERS OF THEIR UNION, BUT THE NUMBER OF INDIVIDUALS EACH UNION MAY DESIGNATE AS "OFFICIAL" IS LIMITED, AS IS THE AMOUNT OF TIME OFFICIALS MAY DEVOTE TO UNION BUSINESS ON COMPANY TIME. NO LEGAL PROVISIONS EXIST REQUIRING EMPLOYERS TO REINSTATE WORKERS WHO ARE FOUND TO HAVE BEEN UNJUSTLY FIRED FOR UNION ACTIVITIES.

TO BECOME AN OFFICIAL COLLECTIVE BARGAINING REPRESENTATIVE, A UNION MUST REPRESENT AT LEAST 20 WORKERS. REPRESENTATIVES MAY PARTICIPATE IN COLLECTIVE BARGAINING NEGOTIATIONS AND ESTABLISH NEGOTIATING TIMETABLES. MANAGEMENT NEGOTIATING TEAMS CANNOT EXCEED THE SIZE OF UNION TEAMS, AND BOTH SIDES ARE PERMITTED TO HAVE ATTORNEYS AND TECHNICAL EXPERTS PRESENT AS ADVISERS.

STRIKES REQUIRE SECRET-BALLOT APPROVAL OF A MAJORITY OF ALL WORKERS IN A COMPANY, WHETHER UNION MEMBERS OR NOT. A SECOND VOTE MUST BE TAKEN, IF PETITIONED BY AT LEAST 20 PERCENT OF THE WORKERS. LABOR RIGHTS ADVOCATES COMPLAIN THAT MANY TEMPORARY WORKERS ARE RELUCTANT TO PARTICIPATE EVEN IN SECRET BALLOTS, FOR FEAR OF EMPLOYER RETALIATION. THE LABOR MOVEMENT CONTINUED TO CRITICIZE PROVISIONS IN THE NEW AMENDMENTS TO THE EMPLOYMENT PROMOTION LAW THAT MAKE IT EASIER FOR EMPLOYERS TO DISMISS EMPLOYEES AND THEREBY TO IMPEDE THE RIGHT OF WORKERS TO BARGAIN COLLECTIVELY. HOWEVER, THERE ARE NO LEGAL RESTRICTIONS PREVENTING UNIONS FROM NEGOTIATING FOR HIGHER LEVELS OF WORKER PROTECTION THAN THE BASELINE STANDARDS PROVIDED FOR BY LAW.

LABOR REGULATIONS PERMIT COMPANIES UNILATERALLY TO PROPOSE TEMPORARY CHANGES IN WORK SCHEDULES, CONDITIONS, AND WAGES, AND TO SUSPEND COLLECTIVE BARGAINING AGREEMENTS FOR UP TO 90 DAYS, IF OBLIGED TO DO SO BY WORSENING ECONOMIC CIRCUMSTANCES OR OTHER UNEXPECTED NEGATIVE DEVELOPMENTS, PROVIDED THEY GIVE THEIR EMPLOYEES AT LEAST 15 DAYS' NOTICE OF SUCH CHANGES. HOWEVER, LABOR RIGHTS ADVOCATES ALLEGE THAT, IN PRACTICE, FEW EMPLOYERS RESPECTED THIS PROVISION. IF WORKERS REJECT AN EMPLOYER'S PROPOSED CHANGES, THE MINISTRY OF LABOR IS REQUIRED TO RESOLVE THE DISPUTE BASED ON CRITERIA OF "REASONABLENESS" AND "ECONOMIC NECESSITY." WHETHER THE CHANGES PROPOSED BY EMPLOYERS IN SUCH INSTANCES ARE UPHELD IN FULL OR IN PART, EMPLOYERS ARE REQUIRED TO ADOPT ALL POSSIBLE MEASURES, SUCH AS THE AUTHORIZATION OF EXTRA VACATION TIME, IN ORDER TO MINIMIZE THE NEGATIVE ECONOMIC IMPACT ON THEIR EMPLOYEES.

ALTHOUGH A CONCILIATION AND ARBITRATION SYSTEM EXISTS TO RESOLVE MANAGEMENT AND LABOR DISPUTES, UNION OFFICIALS COMPLAIN THAT THEIR PROPORTIONATE SHARE OF THE COSTS OF ARBITRATION OFTEN EXCEEDS THEIR RESOURCES. IN ADDITION, UNION OFFICIALS CLAIM THAT, AS THE LAW PROHIBITS TEMPORARY

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WORKERS FROM PARTICIPATING IN UNION ORGANIZING ELECTIONS, MORE AND MORE COMPANIES HAVE RESORTED TO HIRING WORKERS ON TEMPORARY, PERSONAL-SERVICES CONTRACTS AS A MEANS OF PREVENTING INCREASES IN UNION STRENGTH. ALTHOUGH THE NEW LEGISLATION RESTRICTS THE NUMBER OF TEMPORARY WORKERS HIRED TO 20 PERCENT OF A COMPANY'S WORK FORCE, LABOR RIGHTS ADVOCATES ALLEGED THAT THIS QUOTA WAS RARELY RESPECTED. EMPLOYERS DENIED THAT THEY ARE BIASED AGAINST UNIONS, ARGUING THAT THE LABOR-STABILITY PROVISIONS OF THE LEGISLATIVE HAVE MADE LONG-TERM COMMITMENTS TO WORKERS TOO EXPENSIVE.

SPECIAL REGULATIONS AIMED AT GIVING EMPLOYERS IN EXPORT-PROCESSING AND DUTY-FREE ZONES A FREER HAND IN THE APPLICATION OF THE NEW LEGISLATION PROVIDE FOR THE USE OF TEMPORARY LABOR AS NEEDED, FOR GREATER FLEXIBILITY IN LABOR CONTRACTS, AND FOR SETTING WAGE RATES BASED ON SUPPLY AND DEMAND. AS A RESULT, WORKERS IN SUCH ZONES HAVE DIFFICULTY IN UNIONIZING, ALTHOUGH LABOR RIGHTS ADVOCATES ADMIT THESE ZONES ARE FEW IN NUMBER AND DO NOT CONTRIBUTE SUBSTANTIVELY TO LABOR'S UNIONIZING DIFFICULTIES.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

THE CONSTITUTION PROHIBITS FORCED OR COMPULSORY LABOR. IN RESPONSE TO A COMPLAINT FILED WITH THE ILO, THE GOVERNMENT ACKNOWLEDGED IN 1994 THAT FORCED LABOR EXISTED BUT STATED THAT IT HAD ADOPTED MEASURES TO END THE ABUSES. THE CONSTITUTION DOES NOT PROHIBIT SPECIFICALLY FORCED OR BONDED LABOR BY CHILDREN AND, SINCE 1988, THERE WERE REPORTS OF SUCH LABOR IN THE INFORMAL GOLD MINES OF MADRE DE DIOS DEPARTMENT. IN 1998, HOWEVER, THE MINISTRY OF ENERGY AND MINES REPORTED THE NUMBER OF REGISTERED DREDGING COMPANIES FELL TO SIX IN THIS REGION, WHILE INFORMAL OPERATIONS CONTINUED. NGO SOURCES AND THE ILO REPORT THAT MECHANIZATION LARGELY REPLACED MANUAL LABOR, AND IN 1998 THE MINISTRY OF LABOR INITIATED INSPECTIONS TO POLICE AGAINST CHILD LABOR IN THIS REGION. CONSEQUENTLY, ILO AND NGOS AGREE THAT FORCED CHILD LABOR IN MADRE DE DIOS HAS DECREASED SIGNIFICANTLY. THERE IS NO FORCED LABOR IN URBAN AREAS.

QD. STATUS OF CHILD LABOR PRACTICES AND MINIMUM AGE FOR EMPLOYMENT

A CHILD AND ADOLESCENT CODE OF 1992 GOVERNS CHILD AND ADOLESCENT LABOR PRACTICES. THE LEGAL MINIMUM AGE FOR EMPLOYMENT IS 12. IN CERTAIN SECTORS OF THE ECONOMY, HOWEVER, HIGHER MINIMUMS ARE IN FORCE: 14 IN AGRICULTURAL WORK; 15 IN INDUSTRIAL, COMMERCIAL, OR MINING WORK; AND 16 IN THE FISHING INDUSTRY. CERTAIN TYPES OF EMPLOYMENT ARE PROHIBITED, SUCH AS WORK UNDERGROUND; WORK THAT INVOLVES THE LIFTING AND CARRYING OF HEAVY WEIGHTS; WORK WHERE THE CHILD OR ADOLESCENT IS RESPONSIBLE FOR THE SAFETY OF OTHERS; NIGHT WORK; OR ANY WORK THAT JEOPARDIZES THE HEALTH OF CHILDREN AND ADOLESCENTS, PUTS AT RISK THEIR PHYSICAL, MENTAL, AND

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EMOTIONAL DEVELOPMENT, AND PREVENTS THEIR REGULAR ATTENDANCE AT SCHOOL.

THE CONSTITUTION PROVIDES FOR COMPULSORY, FREE EDUCATION THROUGH SECONDARY SCHOOL. NEVERTHELESS, LARGELY BECAUSE OF WIDESPREAD POVERTY, APPROXIMATELY ONE-THIRD OF ALL SCHOOL-AGE CHILDREN AND ADOLESCENTS WORK DURING DAYTIME HOURS RATHER THAN ATTEND CLASSES, AND ONLY A FEW OF THEM ATTEND CLASSES AT NIGHT.

MANY CHILDREN ARE PRESSED TO HELP SUPPORT THEIR FAMILIES FROM A VERY EARLY AGE BY WORKING IN THE INFORMAL ECONOMY, WHICH ESCAPES GOVERNMENT SUPERVISION OF WAGES AND WORKING CONDITIONS. OTHER CHILDREN AND ADOLESCENTS WORK EITHER IN FORMALLY ESTABLISHED ENTERPRISES, OR AS UNPAID WORKERS AT HOME, OR IN THE SEX TRADE.

ADOLESCENT WORKERS MUST BE AUTHORIZED TO WORK AND MUST BE REGISTERED UNLESS THEY ARE EMPLOYED AS DOMESTIC WORKERS OR AS UNPAID FAMILY WORKERS. ADOLESCENTS ONLY MAY WORK A CERTAIN NUMBER OF HOURS EACH DAY: FOUR HOURS FOR AGES 12 THROUGH 14, AND SIX HOURS FOR AGES 15 THROUGH 17. ADOLESCENT EMPLOYMENT MUST BE REMUNERATED IN ACCORDANCE WITH THE PRINCIPLE OF EQUAL PAY FOR EQUAL WORK. IN PRACTICE, THE STIPULATIONS AND PROHIBITIONS STATED IN THE CHILD AND ADOLESCENT CODE ARE VIOLATED ROUTINELY AND Pervasively, ESPECIALLY IN THE INFORMAL SECTOR WHERE GOVERNMENT STANDARDS VERY RARELY ARE ENFORCED. FORTY PERCENT OF CHILD AND ADOLESCENT LABORERS WORK LONG HOURS IN THE AGRICULTURAL SECTOR. MANY OTHER CHILDREN ARE EMPLOYED IN DANGEROUS OCCUPATIONS OR IN HIGH-RISK ENVIRONMENTS, SUCH AS GOLD MINING, GARBAGE COLLECTION, LOADING AND UNLOADING PRODUCE IN MARKETS AND BRICK MAKING, OR IN STONE QUARRIES AND FIREWORKS FACTORIES, AMONG OTHERS.

IN RECENT YEARS, GOVERNMENT SURVEYS HAVE VARIOUSLY ESTIMATED THE NUMBER OF CHILD AND ADOLESCENT WORKERS AT ANYWHERE FROM 500,000 TO 1.9 MILLION. A 1996 GOVERNMENT STUDY FOUND THAT 8 PERCENT OF THE WORK FORCE IS BETWEEN THE AGES OF SIX AND 14 (SEE SECTION 5). CHILD AND ADOLESCENT LABOR TENDS TO BE SEASONAL, WITH THE HIGHEST SURVEY STATISTICS BEING REPORTED DURING SCHOOL VACATION PERIODS. THE CONSTITUTION DOES NOT PROHIBIT SPECIFICALLY FORCED OR BONDED LABOR AND CHILDREN, AND THERE WERE REPORTS THAT IT OCCURRED (SEE SECTION 6.D.)

QE. ACCEPTABLE CONDITIONS OF WORK

THE CONSTITUTION PROVIDES THAT THE STATE PROMOTE SOCIAL AND ECONOMIC PROGRESS AND OCCUPATIONAL EDUCATION. IT STATES THAT WORKERS SHOULD RECEIVE A "JUST AND SUFFICIENT" WAGE TO BE DETERMINED BY THE GOVERNMENT IN CONSULTATION WITH LABOR AND BUSINESS REPRESENTATIVES, AS WELL AS "ADEQUATE PROTECTION AGAINST ARBITRARY DISMISSAL."

SINCE SEPTEMBER 1997, THE GOVERNMENT RAISED THE STATUTORY

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MINIMUM WAGE TO 345 SOLES A MONTH (WHICH IS EQUIVALENT TO \$100). IN NOVEMBER 1997, THE POVERTY LINE WAS ESTIMATED AT 157 SOLES A MONTH (WHICH WAS EQUIVALENT TO \$45). ACCORDING TO SOME ESTIMATES, AS MUCH AS HALF THE WORK FORCE EARNS THE MINIMUM WAGE OR BELOW. (99 WAGE FIGURES)

THE CONSTITUTION ALSO PROVIDES FOR A 48-HOUR WORKWEEK, A WEEKLY DAY OF REST, AND AN ANNUAL VACATION. IN ADDITION, IT PROHIBITS DISCRIMINATION IN THE WORKPLACE.

WHILE OCCUPATIONAL HEALTH AND SAFETY STANDARDS EXIST, THE GOVERNMENT LACKS THE RESOURCES TO MONITOR FIRMS OR ENFORCE COMPLIANCE. IN CASES OF INDUSTRIAL ACCIDENTS, THE LEVEL OF COMPENSATION AWARDED TO THE INJURED EMPLOYEE USUALLY IS DETERMINED BY AGREEMENT BETWEEN THE EMPLOYER AND THE INDIVIDUAL INVOLVED. IN 1992 THE GOVERNMENT INTRODUCED REFORMS THAT ELIMINATED THE NEED TO PROVE AN EMPLOYER'S CULPABILITY IN ORDER TO OBTAIN COMPENSATION FOR WORK-RELATED INJURIES. NO PROVISIONS EXIST IN LAW FOR WORKERS TO REMOVE THEMSELVES FROM POTENTIALLY DANGEROUS WORK SITUATIONS WITHOUT JEOPARDIZING THEIR CONTINUED EMPLOYMENT.

HAMILTON

ADMIN  
END OF MESSAGE

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