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SUBJECT: DRAFT 1998 HUMAN RIGHTS REPORT FOR PERU

1. SENSITIVE BUT UNCLASSIFIED - NOFORN -- ENTIRE TEXT.

2. FOLLOWING IS THE 1998 COUNTRY HUMAN RIGHTS REPORT FOR PERU.

3. 1998 STATE DEPARTMENT HUMAN RIGHTS REPORT ON PERU

PERU IS A MULTIPARTY REPUBLIC WITH A DOMINANT EXECUTIVE BRANCH. WHILE NOMINALLY A DEMOCRACY, IN PRACTICE THE EXECUTIVE OFTEN USES ITS CONTROL OF THE LEGISLATURE AND JUDICIARY TO THWART DEMOCRATIC NORMS, AT TIMES FLAGRANTLY. UNDER PROVISIONS OF A

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CONSTITUTION ENACTED IN 1993, PRESIDENT ALBERTO FUJIMORI WAS REELECTED TO A SECOND 5-YEAR TERM IN 1995, AT WHICH TIME HIS PARTY ALSO WON A CONTROLLING MAJORITY IN CONGRESS. THE CONSTITUTION ALSO CREATED SEVERAL NEW JUDICIAL INSTITUTIONS DESIGNED TO ENHANCE THE INDEPENDENCE OF THE JUDICIARY, INCLUDING A CONSTITUTIONAL TRIBUNAL. HOWEVER, IN 1996, THE CONGRESSIONAL MAJORITY, FACED WITH THE CONSTITUTIONAL PROVISION LIMITING PRESIDENTS TO NO MORE THAN TWO CONSECUTIVE TERMS IN OFFICE, PASSED A LAW THAT WOULD PERMIT PRESIDENT FUJIMORI TO RUN FOR A THIRD CONSECUTIVE TERM. WHEN THREE MEMBERS OF THE CONSTITUTIONAL TRIBUNAL DECLARED THAT LAW WAS "INAPPLICABLE" TO FUJIMORI'S CASE, CONGRESS SIMPLY REMOVED THEM FROM OFFICE, THEREBY PARALYZING THE TRIBUNAL'S ABILITY TO RULE ON ANY CONSTITUTIONAL ISSUES FOR LACK OF A QUORUM. IN 1998, CONGRESS CONTINUED TO STRENGTHEN THE EXECUTIVE'S GRIP ON THE JUDICIARY BY TRANSFERRING THE POWER TO DISCIPLINE JUDGES AND PROSECUTORS FROM THE FORMERLY INDEPENDENT NATIONAL JUDICIARY COUNCIL TO THE JUDICIAL BRANCH AND THE PUBLIC MINISTRY, AND ALTERING THE VOTING PROCEDURE ON THE NATIONAL BOARD OF ELECTIONS IN FAVOR OF A POTENTIAL FUJIMORI CANDIDACY. BY YEAR'S END, CONGRESS HAD STILL NOT REPLACED THE OUSTED CONSTITUTIONAL TRIBUNAL JUDGES.

THE GUTTING OF THE CONSTITUTIONAL TRIBUNAL BY CONGRESSIONAL ACTION WAS PARTICULARLY SIGNIFICANT IN SETTING THE STAGE FOR FUJIMORI'S RUN FOR A THIRD TERM IN 2000. AS MANY AS 1.4 MILLION SIGNATURES WERE GATHERED IN A PETITION DRIVE FOR A REFERENDUM ON WHETHER OR NOT THE LAW PERMITTING FUJIMORI TO RUN FOR A THIRD CONSECUTIVE TERM SHOULD BE REPEALED. HOWEVER, THE NATIONAL BOARD OF ELECTIONS RULED THAT ACCORDING TO A 1996 LAW, THE REFERENDUM COULD ONLY BE HELD IF 48 MEMBERS OF CONGRESS FAVORED IT, THEREBY REVERSING ITS EARLIER DECISION PERMITTING THE SIGNATURE DRIVE TO PROCEED WITHOUT CONGRESSIONAL APPROVAL. ON AUGUST 27, THE REFERENDUM WAS EFFECTIVELY KILLED WHEN ONLY 45 MEMBERS VOTED FOR IT.

THUS THE RIGHT TO A REFERENDUM ON SUCH A QUESTION, WHICH IS ENSHRINED IN THE CONSTITUTION, WAS ABROGATED BY LEGISLATIVE ACTION WITH NO OPPORTUNITY FOR JUDICIAL REVIEW. TWO DAYS LATER THE NEW YORK TIMES EDITORIALIZED THAT FUJIMORI WAS THE WORST OF THE AUTOCRATIC LEADERS IN LATIN AMERICA TODAY.

THE POLICE AND MILITARY SHARE THE RESPONSIBILITY FOR INTERNAL SECURITY. HOWEVER, IN MAY, PRESIDENT FUJIMORI ISSUED A LEGISLATIVE DECREE GRANTING THE NATIONAL INTELLIGENCE SERVICE AN AS-YET UNSPECIFIED ROLE IN THE WAR ON CRIME. SINCE 1980, THE SECURITY FORCES HAVE DIRECTED MOST OF THEIR EFFORTS AGAINST THE SENDERO LUMINOSO (SHINING PATH) AND TUPAC AMARU REVOLUTIONARY MOVEMENT (MRTA) TERRORIST GROUPS. THE

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THREAT POSED BY THESE GROUPS HAS CONTINUED TO DECLINE IN OVERALL TERMS, NOTWITHSTANDING THE 1996-1997 MRTA TAKEOVER OF THE JAPANESE AMBASSADOR'S RESIDENCE. WITHIN THE EMERGENCY ZONES, WHICH COVER 16 PERCENT OF THE COUNTRY AND WHERE THE MILITARY IS IN CHARGE, CERTAIN CONSTITUTIONAL PROTECTIONS ARE SUSPENDED. IN THE REST OF THE COUNTRY, THE CIVILIAN AUTHORITIES GENERALLY MAINTAIN EFFECTIVE CONTROL OF THE SECURITY FORCES. NEVERTHELESS, THE MILITARY AND THE POLICE WERE RESPONSIBLE FOR SOME SERIOUS HUMAN RIGHTS ABUSES.

THE GOVERNMENT HAS IMPLEMENTED MAJOR ECONOMIC REFORMS, TRANSFORMING THE ECONOMY FROM ONE BASED ON HEAVY REGULATION TO A MARKET-ORIENTED ONE. THE GOVERNMENT HAS ELIMINATED CONTROLS ON CAPITAL FLOWS, PRICES, AND TRADE. IT HAS PRIVATIZED MOST STATE ENTERPRISES AND PLANS TO SELL THOSE THAT REMAIN BY THE END OF 1999. THE INFLATION RATE HAS DROPPED INTO SINGLE DIGITS, AND GROWTH AND FOREIGN INVESTMENT HAVE SOARED. PER CAPITA GROSS DOMESTIC PRODUCT IS ESTIMATED AT \$2,000. MAJOR EXPORTS INCLUDE COPPER AS WELL AS OTHER MINERALS, FISHMEAL, AND TEXTILES. ILLEGAL EXPORTS OF PROCESSED COCA ARE THOUGHT TO HAVE EARNED ABOUT \$600 TO \$800 MILLION ANNUALLY IN PAST YEARS. THE UNEMPLOYMENT RATE IN LIMA IS ESTIMATED AT 8 PERCENT, BUT THE NATIONAL RATE OF UNDEREMPLOYMENT IS ABOUT 40 PERCENT. MORE THAN HALF OF THE ECONOMICALLY ACTIVE POPULATION WORKS IN THE INFORMAL SECTOR OF THE ECONOMY, WHICH LARGELY FUNCTIONS BEYOND GOVERNMENT SUPERVISION AND TAXATION. THE POOR COMPRISE 50 PERCENT OF THE POPULATION, AND SLIGHTLY LESS THAN 15 PERCENT OF THE POPULATION LIVES IN EXTREME POVERTY.

ALTHOUGH EGREGIOUS ABUSES OF HUMAN RIGHTS CONTINUED TO DECLINE, A VARIETY OF HUMAN RIGHTS VIOLATIONS WERE REPORTED, AND IMPUNITY REMAINED A PROBLEM. SECURITY FORCES WERE ACCUSED OF TORTURE AND BEATINGS. THE TWO MORE SENIOR OFFICERS OF THE FOUR WHO HAD BEEN SENTENCED TO PRISON FOR TORTURING ARMY INTELLIGENCE SERVICE OFFICER LEONOR LA ROSA IN 1997 WERE PARDONED AND RELEASED. OVERALL PRISON CONDITIONS REMAINED HARSH, PARTICULARLY IN MAXIMUM SECURITY FACILITIES. ARBITRARY DETENTION, ABSENCE OF ACCOUNTABILITY, LACK OF DUE PROCESS, LENGTHY TRIAL DELAYS, PROLONGED PRETRIAL IMPRISONMENT, AND GENERAL INEFFICIENCY OF THE JUDICIAL SYSTEM PERSISTED IN 1998. NOT UNEXPECTEDLY, A CONGRESSIONAL INVESTIGATION OF AN ALLEGED SECRET GOVERNMENT INTELLIGENCE PROGRAM TO MONITOR THE TELEPHONES OF MANY OFFICIALS, POLITICIANS, JOURNALISTS, AND OTHER PUBLIC FIGURES FOUND NO EVIDENCE OF GOVERNMENT WRONGDOING. NOT ONLY WAS THE CONGRESSIONAL COMMISSION UNABLE OR UNINTERESTED IN CLARIFYING THE INCIDENT, BUT IT

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ATTEMPTED TO BLAME THE JOURNALISTS WHO PUBLISHED THE STORY FOR THE INCIDENT. IN ANOTHER ATTACK ON FREEDOM OF THE PRESS, THE NATIONAL INTELLIGENCE SERVICE ALLEGEDLY INSTIGATED AND FINANCED A CAMPAIGN BY THE YELLOW PRESS DEFAMING AS TRAITORS THE INVESTIGATIVE STAFF OF THE STRONGLY-OPPOSITION DAILY "LA REPUBLICA."

ALTHOUGH DURING THE OCTOBER MUNICIPAL ELECTIONS ALL CANDIDATE LISTS WERE REQUIRED TO INCLUDE NO LESS THAN 25 PERCENT WOMEN AND NO LESS THAN 25 PERCENT MEN, OTHER FORMS OF DISCRIMINATION, AS WELL AS VIOLENCE AGAINST WOMEN, WERE WIDESPREAD. VIOLENCE AGAINST CHILDREN AND DISCRIMINATION AGAINST THE DISABLED, INDIGENOUS PEOPLE, AND RACIAL MINORITIES ALSO PERSISTED. IN SPITE OF THE GLOBAL MARCH AGAINST CHILD LABOR, WHICH PASSED THROUGH PERU, CHILD LABOR, INCLUDING FORCED CHILD LABOR, REMAINED A SERIOUS PROBLEM.

THE OFFICE OF THE DEFENDER OF THE PEOPLE, OR HUMAN RIGHTS OMBUDSMAN, CONTINUED TO ENJOY THE PUBLIC'S RESPECT AND CONFIDENCE. THE AD HOC PARDONS COMMISSION RECOMMENDED MORE PRESIDENTIAL PARDONS FOR INDIVIDUALS UNJUSTLY JAILED FOR TERRORISM AND TREASON. DURING THE YEAR, IT WON THE RELEASE OF AN ADDITIONAL 78 DETAINEES, BRINGING THE TOTAL OF THOSE PARDONED AND RELEASED TO 438. THE PRESIDENT SIGNED INTO LAW LEGISLATION CLASSIFYING TORTURE AS A CRIME TO BE TRIED IN CIVILIAN COURT. FOLLOWING THE 1997 ABOLITION OF THE "FACELESS" TRIBUNALS, THE CIVILIAN JURISDICTION CREATED A NEW SYSTEM OF SPECIALIZED TERRORISM COURTS WITH IDENTIFIABLE JUDGES AND A GREATER DEGREE OF DUE PROCESS.

SENDERO LUMINOSO AND MRTA TERRORISTS CONTINUED TO CARRY OUT THE GREAT MAJORITY OF KILLINGS AND OTHER EGREGIOUS HUMAN RIGHTS ABUSES. MEMBERS OF SENDERO LUMINOSO ASSASSINATED A PRO-GOVERNMENT TOWN MAYOR AS HE WAS CAMPAIGNING FOR REELECTION IN ADVANCE OF THE MUNICIPAL ELECTIONS. SENDERO LUMINOSO ALSO PRACTICED TORTURE AND OTHER FORMS OF BRUTALITY, DISRUPTED THE HOME AND FAMILY LIFE OF MANY CITIZENS, AND VIOLATED THE RIGHTS OF INDIGENOUS PEOPLE.

RESPECT FOR HUMAN RIGHTS

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

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLINGS

THERE WERE PRESS REPORTS OF A NUMBER OF EXTRAJUDICIAL KILLINGS CARRIED OUT BY THE SECURITY FORCES, ONE OF WHICH MAY HAVE BEEN POLITICALLY MOTIVATED.

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ON THE NIGHT OF APRIL 14, A 12-MAN ARMY UNIT ON ANTI-TERRORIST PATROL KILLED EMETRIO SANTOS CALVAY, A TEACHER, AND ONE OF HIS FRIENDS, NEAR CHICLAYO, ALLEGEDLY BECAUSE THEY SUSPECTED THE VICTIMS WERE TERRORISTS, ALTHOUGH THEY HAD NO EVIDENCE THIS WAS THE CASE. THEY ATTEMPTED TO CONCEAL THE TRUE NATURE OF THE INCIDENT BY CLAIMING THEY HAD CLASHED WITH A BAND OF 30 TERRORISTS AND, IN ORDER TO SUBSTANTIATE THEIR STORY, EVEN LIGHTLY INJURED TWO OF THEIR OWN PATROL MEMBERS. HOWEVER, THEIR CREDIBILITY BECAME SUSPECT WHEN THEY WERE UNABLE TO PRODUCE ANY OF THE ALLEGED TERRORISTS' WEAPONS AND FAILED TO FILE AN OFFICIAL REPORT OF THE INCIDENT. THEY WERE TAKEN INTO CUSTODY FOR INVESTIGATION BY THE LOCAL PROSECUTOR.

IN MARCH, IN THE VILLAGE OF LUMBRA, HUARAL PROVINCE, FARM HANDS GENARO JULCA BULA AND ALBERTO APONTE WERE KILLED BY TWO SOLDIERS FROM THE LOCAL ARMY BASE. THE SOLDIERS, CARLOS QUITO LOPEZ AND RAUL QUITO HERRERA, WHOSE ORIGINAL PLAN WAS APPARENTLY TO DO NO MORE THAN ROB THE FARM HANDS, INSTEAD SHOT AND KILLED THEIR VICTIMS WHEN THEY OFFERED SOME RESISTANCE. NOT ONLY WERE THE TWO PERPETRATORS OF THE CRIME CHARGED IN THE CASE, BUT ALSO TWO OTHER SOLDIERS AT THE BASE WHO HAD SUPPLIED THEM WITH THEIR WEAPONS.

DURING THE YEAR, POSSIBLE NEW INFORMATION CAME TO LIGHT THAT MIGHT HELP RESOLVE THE CASE OF MARIELA BARRETO, AN ARMY INTELLIGENCE SERVICE (SIE) AGENT, WHOSE DISMEMBERED AND DECAPITATED BODY WAS FOUND IN MARCH 1997. ALTHOUGH PRESIDENT FUJIMORI PROMISED AN EXHAUSTIVE INVESTIGATION, NEITHER THE PUBLIC MINISTRY NOR THE POLICE HAVE SO FAR SUCCEEDED IN DETERMINING A MOTIVE FOR THE KILLING OR A LIKELY SUSPECT. HOWEVER, IN A MARCH 16 TELEVISION INTERVIEW FROM MIAMI, LUISA MARGARITA ZANATTA MUEDAS, ANOTHER SIE AGENT WHO WAS REPORTEDLY SEEKING ASYLUM IN THE UNITED STATES, PROVIDED WHAT APPEARED TO BE CREDIBLE INFORMATION ABOUT WIRE-TAPPING AND OTHER OPERATIONS SPONSORED BY HER EMPLOYERS. IN RESPONSE TO THE INTERVIEW AND TO A CONGRESSIONAL REQUEST, HUMAN RIGHTS OMBUDSMAN JORGE SANTISTEVAN DISPATCHED TWO MEMBERS OF HIS STAFF TO MIAMI TO SEEK MORE DETAILED INFORMATION FROM ZANATTA REGARDING THE BARRETO CASE.

IN JUNE, A SPECIALIZED CRIMINAL COURT IN IQUITOS SENTENCED SIX SOLDIERS TO 20 YEARS, AND THEIR COMMANDING OFFICER MILTON TRIGOSO TO LIFE, IN A CASE OF KIDNAPPING, AGGRAVATED ROBBERY, AND BRUTAL HOMICIDE. THE SEVEN WERE AMONG 16 SOLDIERS WHO WERE ARRESTED AND DISCHARGED FROM SERVICE, IN DECEMBER 1997, FOR HAVING BEATEN, ROBBED, AND MURDERED TWO JAPANESE STUDENTS WHO HAD BEEN EXPLORING THE AMAZON RIVER BY RAFT TWO MONTHS EARLIER. THE INCIDENT

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STRUCK A RAW NERVE IN THE PERUVIAN PUBLIC, BOTH BECAUSE OF PERU'S GENERALLY CLOSE TIES WITH JAPAN AND, MORE SPECIFICALLY, BECAUSE OF THE MRTA HOSTAGE CRISIS AT THE JAPANESE AMBASSADOR'S RESIDENCE, WHICH ENDED IN APRIL 1997. IN A MOVE ATYPICAL OF CASES INVOLVING MEMBERS OF THE ARMED FORCES, PRESIDENT FUJIMORI HAD ANNOUNCED THAT THOSE RESPONSIBLE WOULD BE TRIED IN CIVILIAN RATHER THAN MILITARY COURT. IN ADDITION, THE PUBLIC MINISTRY APPOINTED A SPECIAL PROSECUTOR FROM LIMA TO GO TO IQUITOS AND CARRY OUT THE INVESTIGATION PHASE OF THE CASE. TRIGOSO'S LAWYER SAID HE WOULD APPEAL HIS CLIENT'S SENTENCE.

THE DECEMBER 1992 KILLING OF PEDRO HUILLCA TECSE WAS INITIALLY THOUGHT TO HAVE BEEN CARRIED OUT BY SENDERO LUMINOSO TERRORISTS. HOWEVER, IN SEPTEMBER 1995, JAILED FORMER SIE AGENT MESMER CARLES TALLEDO CHARGED IN LETTERS WRITTEN FROM HIS PRISON CELL THAT HUILLCA TECSE'S MURDER, AS WELL AS A NUMBER OF OTHER HIGH-PROFILE BOMBINGS AND MASSACRES, HAD ACTUALLY BEEN PERPETRATED BY THE COLINA DEATH SQUAD, WHOSE OPERATIONS ARE BELIEVED BY CRITICS OF THE GOVERNMENT TO HAVE BEEN AUTHORIZED AND CONTROLLED BY THE NATIONAL INTELLIGENCE SERVICE. IN NOVEMBER 1997, PRESIDENT FUJIMORI PARDONED MESMER CARLES TALLEDO FOR HAVING BEEN WRONGLY CONVICTED OF TERRORISM. WHEN THE CONGRESSIONAL HUMAN RIGHTS SUBCOMMITTEE INQUIRING INTO CARLES TALLEDO'S CHARGES SUMMONED HIM TO TESTIFY BEFORE IT, HE DENIED HAVING EVER MADE ANY ALLEGATIONS AGAINST THE COLINA DEATH SQUAD, ADMITTED NO KNOWLEDGE OF THE COLINA GROUP, COULD NOT REMEMBER HAVING EVER WRITTEN THE ACCUSATORY LETTERS FROM HIS CELL, AND EVEN DISPUTED THE FACT THAT ONE OF THE MEMBERS OF THE SUBCOMMITTEE HAD EARLIER QUESTIONED HIM IN A VIDEOTAPED INTERVIEW. COINCIDENTALLY, JOSE LUIS BAZAN, ANOTHER FORMER SIE AGENT, WHO HAD CORROBORATED CARLES TALLEDO'S ALLEGATIONS TO INVESTIGATIVE REPORTER JOSE ARRIETA, ALSO RETRACTED HIS ORIGINAL STORY. ALTHOUGH CARLES TALLEDO ATTEMPTED TO EXPLAIN HIS BEHAVIOR BY CLAIMING HE WAS UNDERGOING TREATMENT FOR PSYCHOSIS AND SCHIZOPHRENIA, CRITICS OF THE GOVERNMENT BELIEVE THAT BOTH CARLES TALLEDO'S AND BAZAN'S CHANGE OF HEART WAS DUE TO FEAR, BLACKMAIL, OR THE PROMISE OF SOME REWARD FROM THE INTELLIGENCE SERVICES. AFTER REFUSING TO SUBJECT CARLES TALLEDO TO A LIE-DETECTOR TEST OR TO SUBMIT HIS LETTERS TO GRAPHOLOGICAL ANALYSIS, THE HUMAN RIGHTS COMMITTEE DECIDED IN JUNE TO SHELVE ITS INQUIRY FOR LACK OF PROOF AND LET THE PUBLIC MINISTRY PURSUE THE INVESTIGATION FURTHER. IN THE MEANTIME, JOSE ARRIETA REPORTEDLY SOUGHT POLITICAL ASYLUM IN THE UNITED STATES, FEARING THAT THE INFORMATION HE HAD RECEIVED FROM BAZAN MADE HIM PARTICULARLY VULNERABLE TO POSSIBLE ATTACK BY THE GOVERNMENT'S INTELLIGENCE AGENTS.

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DURING THE YEAR, SENDERO LUMINOSO AND MRTA TERRORISTS KILLED MEMBERS OF THE SECURITY FORCES AND CIVILIANS (SEE SECTION 1.G.).

B. DISAPPEARANCE

DURING THE FIRST ... MONTHS OF 1998 THERE WERE ... DISAPPEARANCES THAT APPEARED POLITICALLY MOTIVATED OR CARRIED OUT BY SECURITY FORCES.

IN FEBRUARY, PRESIDENT FUJIMORI SIGNED INTO LAW LEGISLATION WHICH SPECIFIED A SENTENCE OF UP TO 15 YEARS FOR PERPETRATORS OF FORCED DISAPPEARANCES.

IN A MEETING WITH THE PERUVIAN ASSOCIATION OF RELATIVES OF KIDNAPPED, DETAINED, AND DISAPPEARED PERSONS, HUMAN RIGHTS OMBUDSMAN JORGE SANTISTEVAN HIGHLIGHTED THE NEED TO RESOLVE THE PROBLEMS LEFT OVER FROM PERU'S INTERNAL CONFLICT, AMONG THEM THE 2,371 CASES OF PERSONS WHO HAD DISAPPEARED AND NEVER BEEN FOUND. HE SAID HIS OFFICE WOULD WORK TO HELP THE RELATIVES IN LOCATING AND IDENTIFYING THE BODIES OF THEIR LOVED ONES, GIVING THEM A PROPER BURIAL AND SEEKING APPROPRIATE COMPENSATION FROM THE STATE.

AT YEAR'S END, THE ISSUE OF COMPENSATION IN THE NEIRA ALEGRIA CASE HAD STILL NOT BEEN SETTLED IN THE INTER-AMERICAN COURT OF HUMAN RIGHTS. IN JUNE 1986, VICTOR NEIRA ALEGRIA AND TWO OTHER INMATES AT EL FRONTON HIGH-SECURITY PRISON DISAPPEARED FOLLOWING A MILITARY ASSAULT ON THE FACILITY WHERE A MUTINY WAS UNDERWAY.

IN A JANUARY 1995 DECISION, THE INTER-AMERICAN COURT RULED THAT THE GOVERNMENT HAD VIOLATED THE RIGHT TO LIFE OF THE THREE INMATES AND ORDERED IT TO ENTER INTO NEGOTIATIONS WITH THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS AS TO THE AMOUNT OF COMPENSATION TO BE PAID TO THE VICTIMS' FAMILIES. AFTER REPEATED UNSUCCESSFUL ATTEMPTS TO SECURE THE GOVERNMENT'S COOPERATION IN THIS MATTER, THE COURT, IN SEPTEMBER 1996, SET THE TOTAL AMOUNT OF COMPENSATION FOR THE THREE FAMILIES AT \$154,000. IN JANUARY 1997, THE COURT REJECTED THE GOVERNMENT'S REQUEST FOR CLARIFICATION OF THE COMPENSATION JUDGMENT.

IN NOVEMBER 1997, THE INTER-AMERICAN COURT OF HUMAN RIGHTS FOUND THAT THE GOVERNMENT HAD VIOLATED CATHOLIC UNIVERSITY STUDENT ERNESTO RAFAEL CASTILLO PAEZ'S RIGHT TO LIFE, LIBERTY, AND PERSONAL INTEGRITY, AND ORDERED IT TO PUNISH THOSE RESPONSIBLE, TO RETURN THE VICTIM'S REMAINS TO HIS FAMILY, AND TO COMPENSATE THE FAMILY FOR ITS LOSS. IN OCTOBER 1990, EYEWITNESSES HAD SEEN CASTILLO PAEZ BEING FORCIBLY DETAINED AND DRIVEN AWAY BY POLICE. DESPITE REPEATED ATTEMPTS THROUGH THE COURTS TO HAVE

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HIM RELEASED, THE POLICE DENIED ALL KNOWLEDGE OF HIS WHEREABOUTS.

C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

THE CONSTITUTION PROHIBITS TORTURE AND INHUMAN OR HUMILIATING TREATMENT. IN ADDITION, IN FEBRUARY, PRESIDENT FUJIMORI SIGNED INTO LAW LEGISLATION CLASSIFYING TORTURE AS A CRIME WHOSE PERPETRATORS WOULD NOW BE TRIED IN THE CIVILIAN JURISDICTION AND BE SUBJECT TO LENGTHY PRISON SENTENCES. THE NEW LAW WILL BRING BEFORE CIVILIAN COURTS TORTURE SUSPECTS WHO BELONG TO THE SECURITY FORCES, A PROVISION LONG RESISTED BY THE PERUVIAN MILITARY. THE STATUTE SPECIFIES A SENTENCE OF FIVE TO TEN YEARS FOR ANYONE CONVICTED OF TORTURE. IF THE TORTURE RESULTS IN GRAVE INJURY TO THE VICTIM, THE PERPETRATOR WOULD RECEIVE A 6-12 YEAR SENTENCE AND, IF THE TORTURE RESULTS IN THE DEATH OF THE VICTIM, THE PERPETRATOR WOULD BE SENTENCED TO 8-20 YEARS. HUMAN RIGHTS GROUPS HAD ALWAYS CRITICIZED THE LACK OF A CRIMINAL CLASSIFICATION OF TORTURE, PARTICULARLY IN CASES INVOLVING MEMBERS OF THE SECURITY FORCES, WHO WERE TYPICALLY TRIED, INSTEAD, ON CHARGES OF ABUSE OF AUTHORITY OR PHYSICAL ASSAULT AND WERE BROUGHT BEFORE MILITARY COURTS, WHICH TENDED TO OPT FOR LENIENT SENTENCES.

HUMAN RIGHTS GROUPS CHARGE THAT PHYSICAL TORTURE AND BRUTAL TREATMENT OF DETAINEES BY SECURITY FORCE PERSONNEL ARE COMMON OCCURRENCES, PARTICULARLY IN POLICE CELLS OPERATED BY THE NATIONAL COUNTER-TERRORISM DIRECTORATE AND IN DETENTION FACILITIES ON MILITARY BASES WHERE TERRORISM AND TREASON SUSPECTS ARE NORMALLY HELD. PSYCHOLOGICAL TORTURE AND ABUSE, WHICH RESULT FROM THE HARSH CONDITIONS IN WHICH DETAINEES ARE HELD, ARE MORE CHARACTERISTIC OF PERU'S PRISONS. THE LEGAL DEFENSE INSTITUTE, A MAJOR HUMAN RIGHTS NGO, REPORTS THAT THE U.N. COMMITTEE AGAINST TORTURE HAS RECEIVED 617 COMPLAINTS OF TORTURE ALLEGEDLY COMMITTED BETWEEN 1993 AND 1997. HOWEVER, THE INSTITUTE HAS NO INFORMATION ABOUT COMPLAINTS OF TORTURE SO FAR COMMITTED IN 1998. REPORTEDLY, TORTURE MOST OFTEN TAKES PLACE DURING THE PERIOD IMMEDIATELY FOLLOWING ARREST. HUMAN RIGHTS GROUPS REPORT THAT THE INCIDENCE OF TORTURE IS HIGH DURING POLICE DETENTION, IN PART BECAUSE FAMILIES ARE PROHIBITED FROM VISITING SUSPECTS WHILE THEY ARE HELD INCOMMUNICADO, AND ATTORNEYS HAVE ONLY LIMITED ACCESS TO THEM (SEE SECTION 1.D.).

HUMAN RIGHTS MONITORS AND OTHER CREDIBLE EYEWITNESSES CONTINUED TO REPORT THAT SECURITY FORCES ROUTINELY TORTURE SUSPECTS AT MILITARY BASES AND DETENTION

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CENTERS IN SOME OF THE EMERGENCY ZONES, ALTHOUGH THE PRESENCE OF INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) DELEGATES IN THESE ZONES IS AN IMPORTANT FACTOR IN MINIMIZING HUMAN RIGHTS ABUSES AGAINST THE CIVILIAN POPULATION WHICH LIVES IN THEM. IN THESE ZONES, WHICH COVER 16 PERCENT OF THE COUNTRY'S TERRITORY AND 23 PERCENT OF ITS POPULATION, CERTAIN CONSTITUTIONAL PROTECTIONS ARE SUSPENDED DUE TO HIGH LEVELS OF TERRORIST ACTIVITY, EVEN THOUGH AT LEAST SOME AREAS DESIGNATED AS EMERGENCY ZONES HAVE NOT REPORTED SERIOUS TERRORIST INCIDENTS FOR SOME TIME.

IN ADDITION TO BEATINGS, COMMON METHODS OF TORTURE AND OTHER INHUMAN OR DEGRADING TREATMENT INCLUDED ELECTRIC SHOCK, WATER TORTURE, ASPHYXIATION, THE HANGING OF VICTIMS BY A ROPE ATTACHED TO HANDS TIED BEHIND THE BACK, AND, IN THE CASE OF FEMALE DETAINEES, RAPE. COMMON FORMS OF PSYCHOLOGICAL TORTURE INCLUDED SLEEP DEPRIVATION AND DEATH THREATS AGAINST BOTH THE DETAINEES AND THEIR FAMILIES. INTERROGATORS FREQUENTLY BLINDFOLDED THEIR VICTIMS DURING TORTURE TO PREVENT THEM FROM LATER IDENTIFYING THEIR ABUSERS. THE AUTHORITIES RARELY BROUGHT THE PERPETRATORS OF TORTURE TO JUSTICE.

IMPORTANT DEVELOPMENTS TOOK PLACE DURING THE YEAR WITH RESPECT TO LEONOR LA ROSA, THE ARMY INTELLIGENCE SERVICE (SIE) AGENT WHO WAS TORTURED BY FOUR OF HER FELLOW OFFICERS AND SUPERIORS IN 1997 AFTER SHE REVEALED TO THE MEDIA A NUMBER OF SIE UNDERCOVER OPERATIONS AND REFUSED TO PARTICIPATE IN ONE OF THEM HERSELF. IN FEBRUARY, SHE DEPARTED FOR MEXICO TO PURSUE HER GOVERNMENT-FUNDED COURSE OF REHABILITATION. HOWEVER, WHEN SHE BECAME DISSATISFIED WITH HER MEDICAL TREATMENT, SHE APPEALED TO THE U.N. HIGH COMMISSIONER FOR REFUGEES, WAS GRANTED REFUGEE STATUS, AND TRAVELED TO SWEDEN TO CONTINUE HER REHABILITATION. AFTER SPENDING SEVERAL MONTHS IN JAIL FOR ABUSE OF AUTHORITY, THE TWO MORE SENIOR OFFICERS AMONG HER FOUR TORTURERS WERE QUIETLY PARDONED AND RELEASED. FINALLY, IN JUNE, THEN PRIME MINISTER JAVIER VALLE Riestra RESPONDED TO A DIRECT APPEAL FROM LA ROSA'S LAWYER AND MANAGED TO HAVE THE MILITARY'S DISLOYALTY CHARGES AGAINST HER QUASHED.

IN 1998, CREDIBLE REPORTS CONTINUED TO APPEAR THAT SENDERO LUMINOSO WAS ALSO RESPONSIBLE FOR ACTS OF TORTURE LEADING TO DEATH. PRISON CONDITIONS CONTINUED TO BE EXTREMELY HARSH DUE TO LOW BUDGETS, THE INCONSISTENT QUALITY OF PRISON ADMINISTRATION, SEVERE OVERCROWDING, AND LACK OF SANITATION, POOR NUTRITION AND HEALTH CARE. CONDITIONS ARE NOT SIGNIFICANTLY WORSE THAN ELSEWHERE IN LATIN AMERICA, HOWEVER. CORRUPTION CONTINUED TO BE A SERIOUS PROBLEM AMONG THE POORLY PAID PRISON

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GUARDS, MANY OF WHOM WERE IMPLICATED IN SUCH OFFENSES AS SEXUAL BLACKMAIL, EXTORTION, THE SALE OF NARCOTICS AND WEAPONS, AND THE ACCEPTANCE OF BRIBES IN EXCHANGE FOR FAVORS WHICH RANGED FROM PROVIDING A MATTRESS TO ARRANGING AN ESCAPE. SINCE PRISON AUTHORITIES DO NOT SUPPLY ADEQUATE BEDDING AND ONLY BUDGET 2.5 SOLES, OR 82 CENTS, PER PRISONER PER DAY FOR FOOD, THE FAMILIES OF PRISONERS MUST PROVIDE FOR THESE BASIC NEEDS. IN HIGH-SECURITY PRISONS, FEMALE INMATES ARE ALLOWED TO SEE THEIR CHILDREN ONLY ONCE A WEEK. HOWEVER, IN PRISONS HOUSING COMMON CRIMINALS ONLY, SUCH AS LIMA'S CHORRILLOS WOMEN'S PRISON FOR COMMON CRIMINALS, CHILDREN THREE YEARS AND YOUNGER LIVE WITH THEIR JAILED MOTHERS.

OVERCROWDING AND INADEQUATE INFRASTRUCTURE CONTINUED TO HAMPER EFFORTS TO IMPROVE THE LIVING CONDITIONS OF PRISON INMATES. AT LIMA'S LURIGANCHO MEN'S PRISON, THE COUNTRY'S LARGEST, MORE THAN 5,000 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 DUE TO A LACK OF CELL SPACE. 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 TEN PERCENT OF THE COUNTRY'S 89 JAILS HAVE ADEQUATE FACILITIES.

IN JULY, THE HUMAN RIGHTS OMBUDSMAN PUBLISHED A REPORT ON PRISON CONDITIONS AND ADMINISTRATION WHICH HIGHLIGHTED MANY SERIOUS SHORTCOMINGS. ALTHOUGH THE OMBUDSMAN'S STAFF VISITED ONLY 37 OF PERU'S 89 PRISONS, THOSE FACILITIES ACCOUNTED FOR 21,700 PRISONERS, OR 89 PERCENT OF THE COUNTRY'S TOTAL PRISON POPULATION OF 24,821 (OUT OF A TOTAL POPULATION OF OVER 24 MILLION). THE OMBUDSMAN REPORTS THAT EIGHT OUT OF THE 37 PRISONS VISITED HAVE NO DOCTOR ON STAFF, THAT FIVE PRISONS HAVE NEITHER DOCTORS NOR NURSES ON STAFF, THAT FOUR PRISONS HAVE NO LAWYER ON STAFF, THAT FIVE PRISONS HAVE NO SOCIAL WORKERS ON STAFF, AND THAT SIX PRISONS HAVE NO PSYCHOLOGISTS ON STAFF. THE OMBUDSMAN INDICATES THAT THE OPERATING PHILOSOPHY IN PERU'S PRISON SYSTEM IS ONE OF PUNISHMENT RATHER THAN REHABILITATION: ONLY 33 PERCENT OF PRISONERS DO SOME FORM OF WORK, AND ONLY 28 PERCENT PARTICIPATE IN SOME KIND OF EDUCATIONAL ACTIVITY. IN JUNE, 800 PRISONERS CLASSIFIED AS NON-DANGEROUS WERE TRANSFERRED FROM LURIGANCHO TO THE NEWLY-BUILT PRISON IN CANETE, WHERE WORK FACILITIES ARE AVAILABLE.

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ACCORDING TO ALL HUMAN RIGHTS MONITORS, THE RECENTLY-OPENED CHALLAPALCA PRISON IN TARATA PROVINCE, TACNA DEPARTMENT, SERIOUSLY VIOLATES INTERNATIONAL NORMS AND STANDARDS, PARTICULARLY WITH RESPECT TO ITS LOCATION AND TO THE ISOLATION OF ITS INMATES. BUILT AT AN ALTITUDE OF OVER 15,000 FEET, CHALLAPALCA'S FREEZING TEMPERATURES AND OXYGEN-THIN AIR ARE THOUGHT TO HAVE AN UNAVOIDABLY NEGATIVE EFFECT ON THE HEALTH OF PRISONERS. MOREOVER, SINCE THE PRISON CAN ONLY BE REACHED AFTER AN ALL-NIGHT BUS RIDE FROM THE NEAREST POPULATION CENTER, MOST FAMILIES WOULD ONLY RARELY BE ABLE TO VISIT THEIR JAILED RELATIVES, HOSPITAL CARE IS EIGHT HOURS AWAY BY OVERLAND TRANSPORTATION, AND FACE-TO-FACE CONSULTATIONS BY INMATES WITH THEIR ATTORNEYS ARE ALMOST UNHEARD OF. IN ORDER TO RELIEVE SOME OF THE ISOLATION, THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) FUNDS A MONTHLY VISIT TO CHALLAPALCA BY THE FAMILIES OF ITS INMATES. THE PRISONERS AT CHALLAPALCA ARE REPUTED TO BE THOSE REGARDED AS THE MOST VIOLENT AND RESISTANT TO ANY ATTEMPTS AT REHABILITATION, AND ARE CLEARLY ASSIGNED TO THAT FACILITY AS THE ULTIMATE PUNISHMENT. THREE HUMAN RIGHTS MONITORS REPRESENTING THE INTERNATIONAL FEDERATION OF HUMAN RIGHTS, WHO VISITED PERU IN AUGUST, CALLED FOR CHALLAPALCA PRISON TO BE CLOSED DOWN. ACCORDING TO CEAS AND ICRC, THE SOLUTION TO PRISON OVERCROWDING LIES NOT IN THE CONSTRUCTION OF NEW CORRECTIONAL FACILITIES BUT IN THE REFORM OF SENTENCING PROCEDURES AND A CHANGE IN CORRECTIONAL PHILOSOPHY AWAY FROM PUNISHMENT AND TOWARD REHABILITATION.

DURING THE YEAR, THERE WERE A NUMBER OF RIOTS, MUTINIES, AND HUNGER STRIKES IN VARIOUS PRISONS, INCLUDING HUANCAYO'S EL TAMBO JUVENILE DETENTION CENTER, YANAMAYO HIGH-SECURITY PRISON FOR TERRORISM AND TREASON CONVICTS, TARAPOTO'S JUANJUI PRISON, AND SAN CRISTOBAL DE MOYOBAMBA PRISON IN SAN MARTIN DEPARTMENT.

DURING A 12-MONTH PERIOD ENCOMPASSING THE 1996-97 MRTA HOSTAGE CRISIS AND THE SUBSEQUENT EIGHT MONTHS, THE GOVERNMENT SUSPENDED ICRC VISITS TO PRISONERS INCARCERATED ON TERRORISM AND TREASON CHARGES, THEREBY VIOLATING ITS 1992 AGREEMENT AUTHORIZING ICRC DELEGATES TO MEET AND INTERVIEW SUCH PRISONERS AWAY FROM PUBLIC VIEW AND WITH NO WITNESSES PRESENT. HOWEVER, FOR THE FIRST TEN MONTHS OF THAT PERIOD, IDENTICAL ICRC VISITS TO DETAINEES IN POLICE HOLDING CELLS PROCEEDED AS BEFORE. IN SEPTEMBER 1997, IMMEDIATELY AFTER INTERIOR MINISTER JOSE VILLANUEVA RUESTA TOOK OFFICE, OFFICIALS OF THE NATIONAL COUNTER-TERRORISM DIRECTORATE (DINCOTE) BEGAN DENYING ICRC DELEGATES VISITING ITS LIMA DETENTION CELLS THE

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OPPORTUNITY TO INTERVIEW DETAINEES ALONE, INSISTING THAT A DINCOTE WITNESS BE PRESENT. DESPITE REPEATED ICRC PROTESTS AGAINST SUCH A CRITICAL CHANGE OF POLICY AND DESPITE ASSURANCES BY PRESIDENT FUJIMORI THAT ICRC DELEGATES WOULD BE ALLOWED TO INTERVIEW DETAINEES ALONE, THE ORIGINAL NO-WITNESS-PRESENT POLICY HAD, BY YEAR'S END, STILL NOT BEEN REINSTITATED.

IT IS NOTEWORTHY THAT, WHILE THE GOVERNMENT HAS ENACTED A LAW CLASSIFYING TORTURE AS A CRIME, IT DENIES ICRC THE OPPORTUNITY TO CONDUCT CONFIDENTIAL INTERVIEWS WITH TERRORISM AND TREASON DETAINEES IN POLICE DETENTION WHERE SUCH DETAINEES ARE REGULARLY AND ROUTINELY TORTURED. BY MARCH, IN LINE WITH PRESIDENT FUJIMORI'S DECEMBER 1997 ANNOUNCEMENT, ICRC DELEGATES FULLY RESUMED THEIR REGULAR VISITS TO TERRORISM AND TREASON CONVICTS IN MAXIMUM SECURITY PRISONS.

D. ARBITRARY ARREST, DETENTION, OR EXILE

ARBITRARY DETENTION REMAINS A PROBLEM. THE CONSTITUTION, CRIMINAL CODE, AND ANTI-TERRORIST STATUTES DELINEATE THE ARREST AND DETENTION PROCESS.

HOWEVER, A NUMBER OF CONSTITUTIONAL PROTECTIONS ARE SUSPENDED IN THE EMERGENCY ZONES WHERE, FOR EXAMPLE, SECURITY FORCES DO NOT NEED AN ARREST WARRANT IN ORDER TO DETAIN A SUSPECT. THE LAW PERMITS THE POLICE TO DETAIN TERRORISM AND TREASON SUSPECTS FOR A MAXIMUM OF 15 DAYS, AND TO HOLD THEM INCOMMUNICADO FOR THE FIRST TEN DAYS. TREASON SUSPECTS, WHO ARE AUTOMATICALLY HANDED OVER TO THE MILITARY JURISDICTION, MAY BE HELD INCOMMUNICADO FOR AN ADDITIONAL 30 DAYS. THE AUTHORITIES PROHIBIT FAMILIES FROM VISITING SUSPECTS BEING HELD INCOMMUNICADO, AND ATTORNEYS ONLY HAVE ACCESS TO THEM DURING THE PREPARATION AND GIVING OF SWORN STATEMENTS TO THE PROSECUTOR.

OUTSIDE THE EMERGENCY ZONES, THE CONSTITUTION REQUIRES A WRITTEN JUDICIAL WARRANT FOR AN ARREST TO BE MADE UNLESS THE PERPETRATOR OF A CRIME IS CAUGHT IN THE ACT. WITH RESPECT TO DETENTION WITHOUT ARREST, THE ORGANIC LAW OF THE NATIONAL POLICE CONTRADICTS THE CONSTITUTIONAL PROVISION, PERMITTING THE POLICE TO DETAIN A PERSON FOR ANY INVESTIGATIVE PURPOSE. ALTHOUGH THE AUTHORITIES MUST ARRAIGN ARRESTED PERSONS WITHIN 24 HOURS, THEY OFTEN VIOLATE THIS REQUIREMENT. IN CASES OF TERRORISM, DRUG TRAFFICKING, OR ESPIONAGE, HOWEVER, ARRAIGNMENTS MUST TAKE PLACE WITHIN 30 DAYS. THE MILITARY AUTHORITIES MUST TURN OVER PERSONS THEY DETAIN TO THE CIVILIAN POLICE WITHIN 24 HOURS; IN REMOTE AREAS OF THE COUNTRY, THIS MUST BE DONE AS SOON AS PRACTICABLE. HOWEVER, THE MILITARY OFTEN DISREGARD THIS REQUIREMENT.

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DETAINEES HAVE THE RIGHT TO A PROMPT JUDICIAL DETERMINATION OF THE LEGALITY OF THEIR DETENTION AND ADJUDICATION OF THEIR HABEAS CORPUS PETITIONS. HOWEVER, ACCORDING TO HUMAN RIGHTS ATTORNEYS, JUDGES HAVE DENIED MOST REQUESTS FOR SUCH HEARINGS. IN MAY, ONE OF THE LEGISLATIVE DECREES ISSUED BY THE EXECUTIVE BRANCH AS PART OF THE WAR ON CRIME (SEE SECTION 1.E.) FURTHER RESTRICTED THE ABILITY OF DETAINEES IN THE PROVINCES OF LIMA AND CALLAO TO PETITION FOR HABEAS CORPUS BY LIMITING THE NUMBER OF JUDGES ABLE TO HEAR SUCH PETITIONS TO NO MORE THAN TWO, INSTEAD OF 40 TO 50 AS BEFORE, THEREBY DRASTICALLY DELAYING JUSTICE. IN 1993, THE ANTI-TERRORISM LAWS WERE AMENDED, AUTHORIZING LOWER COURT AND SUPERIOR COURT JUDGES TO ORDER THE UNCONDITIONAL RELEASE OF SUSPECTED TERRORISTS, IF THERE IS INSUFFICIENT EVIDENCE TO BRING A CASE AGAINST THEM. HOWEVER, JUDGES RARELY ACT ON THIS PROVISION. AS A RESULT, ACCUSED TERRORISTS MUST SOMETIMES WAIT UNTIL THEIR CASES HAVE BEEN REVIEWED AND DISMISSED BY THE SUPREME COURT BEFORE THEY ARE FREED, A PROCESS THAT OFTEN LASTS MORE THAN A YEAR.

AT YEAR'S END, OF A TOTAL PRISON POPULATION OF , ONLY INMATES, OR PERCENT, HAD BEEN SENTENCED, WHILE DETAINEES WERE STILL EITHER AWAITING TRIAL OR HAD NOT YET BEEN FINALLY SENTENCED. IN LURIGANCHO, NO LESS THAN 96 PERCENT OF THE INMATE POPULATION REMAINS UNSENTENCED. THE REPORTED RATIO OF SENTENCED TO UNSENTENCED PRISONERS IS MADE SOMEWHAT WIDER THAN THE ACTUAL RATIO BY THE FACT THAT MANY JUDGES ARE SLOW TO NOTIFY THE NATIONAL PENITENTIARY INSTITUTE (INPE) OF THE FINAL DISPOSITION OF THEIR TRIALS ONCE THEY HAVE PRONOUNCED THEIR SENTENCES. CEAS HAS CALLED FOR THE IMPLEMENTATION OF A SYSTEM THAT WOULD ALLOW DETAINEES TO POST BAIL, SO THAT FIRST-TIME OFFENDERS WOULD NOT HAVE TO WAIT IN JAIL FOR THEIR TRIALS. ACCORDING TO INPE, THE ELAPSED TIME BETWEEN ARREST AND TRIAL IN CIVIL, CRIMINAL, AND TERRORISM CASES AVERAGES BETWEEN 26 AND 36 MONTHS. THOSE TRIED BY MILITARY COURTS ON TREASON CHARGES DO NOT GENERALLY HAVE TO WAIT MORE THAN 40 DAYS FOR THEIR TRIAL, FOLLOWING ARREST. HOWEVER, SINCE TRIAL PROCEDURES IN MILITARY COURTS ARE LARGELY DEVOID OF DUE PROCESS GUARANTEES, THE SPEED WITH WHICH TRIALS ARE CONCLUDED OFFERS LITTLE BENEFIT TO THE DEFENDANTS INVOLVED. ONCE TRIALS HAVE CONCLUDED, PRISONERS OFTEN HAVE TO WAIT LONG PERIODS BEFORE RECEIVING WRITTEN COPIES OF THEIR SENTENCES.

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

E. DENIAL OF FAIR PUBLIC TRIAL

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UNDER THE 1993 CONSTITUTION, SEVERAL NEW INSTITUTIONS WERE CREATED TO ENHANCE THE INDEPENDENCE AND PROFESSIONALISM OF THE JUDICIARY. HOWEVER, IN PRACTICE, THE JUDICIAL SYSTEM IS INEFFICIENT, OFTEN CORRUPT, AND EASILY MANIPULATED BY THE EXECUTIVE BRANCH. AS A RESULT, PUBLIC CONFIDENCE IN THE JUDICIARY IS LOWER THAN FOR ANY OTHER INSTITUTION AND LOWER THAN BEFORE THE "AUTO-GOLPE," OR SELF-COUP, OF 1992, WHICH WAS JUSTIFIED BY THE NEED FOR JUDICIAL REFORM. WHILE TALK OF REFORM CONTINUES, LITTLE HAS BEEN DONE OTHER THAN TO LIMIT THE INDEPENDENCE OF THE JUDICIAL SYSTEM. OF THE COUNTRY'S..... JUDGES, ONLY HAVE PERMANENT APPOINTMENTS, HAVING BEEN INDEPENDENTLY SELECTED. THE REMAINING, INCLUDING 16 OF THE 32 JUDGES OF THE SUPREME COURT, HAVE PROVISIONAL OR TEMPORARY STATUS ONLY. CRITICS CHARGE THAT, SINCE THESE JUDGES LACK TENURE, THEY ARE MUCH MORE SUSCEPTIBLE TO OUTSIDE PRESSURES. THE NEW INSTITUTIONS INCLUDED A CONSTITUTIONAL TRIBUNAL TO RULE ON THE CONSTITUTIONALITY OF CONGRESSIONAL LEGISLATION AND GOVERNMENT ACTIONS; A NATIONAL JUDICIARY COUNCIL TO TEST, NOMINATE, CONFIRM, EVALUATE, AND DISCIPLINE JUDGES AND PROSECUTORS; A JUDICIAL ACADEMY FOR TRAINING JUDGES AND PROSECUTORS; AND AN AUTONOMOUS HUMAN RIGHTS OMBUDSMAN. THE GOVERNMENT MOVED TO LIMIT THE INDEPENDENCE OF THE CONSTITUTIONAL TRIBUNAL ALMOST FROM ITS INCEPTION IN 1995. FIRST, CONGRESS DECREED THAT A SUPER-MAJORITY OF SIX OF THE TRIBUNAL'S SEVEN MEMBERS WAS REQUIRED TO DECLARE ANY LAW OR GOVERNMENT ACTION UNCONSTITUTIONAL. SINCE THREE OF THE TRIBUNAL'S ORIGINAL JUDGES WERE POLITICALLY OR IDEOLOGICALLY ALLIED WITH THE PRESIDENT AND HIS PARTY, THEY WERE EXPECTED TO BLOCK ANY ATTEMPTS TO DECLARE UNCONSTITUTIONAL LAWS OR ACTIONS FAVORED BY THE ADMINISTRATION. WHEN THREE OF THE JUDGES VOTED AGAINST THE LAW CONGRESS PASSED WHICH SAID PRESIDENT FUJIMORI'S RUN FOR A THIRD CONSECUTIVE TERM DID NOT CONSTITUTE A SECOND REELECTION, CONGRESS SIMPLY REMOVED THEM FROM OFFICE, THEREBY CRIPPLING THE TRIBUNAL'S ABILITY TO RULE ON CONSTITUTIONAL ISSUES. BY YEAR'S END, CONGRESS HAD STILL NOT TAKEN ANY STEPS TO REPLACE THE OUSTED JUDGES.

FURTHER TIGHTENING THE EXECUTIVE'S GRIP ON THE JUDICIAL SYSTEM, CONGRESS PASSED A LAW IN MARCH TRANSFERRING THE POWER TO DISMISS SUPREME COURT JUDGES AND PROSECUTORS FROM THE FORMERLY INDEPENDENT NATIONAL JUDICIARY COUNCIL TO THE JUDICIAL BRANCH, IN THE CASE OF JUDGES, AND TO THE PUBLIC MINISTRY, IN THE CASE OF PROSECUTORS. THE NEW LAW REQUIRES INVESTIGATIONS OF JUDGES AND PROSECUTORS ACCUSED OF INFRACTIONS, AS WELL AS DECISIONS ON DISMISSAL, TO BE CARRIED OUT BY THE EXECUTIVE COMMISSIONS OF THE

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JUDICIAL BRANCH AND THE PUBLIC MINISTRY, BOTH OF THEM CONTROLLED BY STRONG ALLIES OF PRESIDENT FUJIMORI. THE NATIONAL JUDICIARY COUNCIL WOULD THEN FUNCTION AS THE COURT OF SECOND INSTANCE, PUTTING ITS STAMP OF APPROVAL ON DECISIONS ALREADY MADE BY THE JUDICIAL BRANCH AND THE PUBLIC MINISTRY. REACTION TO THE NEW LAW WAS SWIFT AND CAME FROM A VARIETY OF QUARTERS. PROTESTING THE CURTAILMENT OF THEIR POWERS, ALL SEVEN MEMBERS OF THE NATIONAL JUDICIARY COUNCIL RESIGNED SIMULTANEOUSLY. IN ADDITION, THE WORLD BANK, WHICH HAD EARLIER ANNOUNCED A 22.5 MILLION DOLLAR LOAN TO PERU FOR JUDICIAL REFORM, SUSPENDED DISBURSEMENT OF THE LOAN PENDING THE RESTORATION OF THE COUNCIL'S POWERS. IN APRIL AND MAY, ALL BUT ONE OF THE JUDICIAL BODIES REPRESENTED ON THE NATIONAL JUDICIARY COUNCIL NOMINATED REPLACEMENTS FOR THEIR RESPECTIVE SEATS. THE NEW PRESIDENT OF THE COUNCIL REPEATEDLY WARNED THAT THE NEW MEMBERS OF THE COUNCIL WOULD ALSO RESIGN IF CONGRESS DID NOT RESTORE ITS POWERS. HE FAILED TO DO SO, HOWEVER, ALTHOUGH CONGRESS AMENDED THE LAW TO ONLY PARTIALLY RESTORE THE COUNCIL'S POWERS AND LEFT THE PUBLIC MINISTRY IN CHARGE OF DETERMINING WHO THE COUNCIL COULD INVESTIGATE. IN APRIL, THE FOUR MEMBERS OF THE EXECUTIVE COUNCIL OF THE JUDICIAL ACADEMY ALSO RESIGNED, PARTLY BECAUSE NO STEPS HAD BEEN TAKEN TO RESTORE THE ACADEMY'S AUTONOMOUS STATUS AS ENVISIONED IN THE BASIC LAW GOVERNING ITS POLICIES AND PROCEDURES, AND PARTLY IN SOLIDARITY WITH THE RESIGNING MEMBERS OF THE NATIONAL JUDICIARY COUNCIL. IN ONE OF THEIR FIRST ACTS, THE NEW MEMBERS APPOINTED TO THE EXECUTIVE COUNCIL OF THE ACADEMY DECIDED TO LENGTHEN THE TRAINING PROGRAM FOR JUDICIAL AND PROSECUTORIAL CANDIDATES FROM SIX MONTHS TO TWO YEARS, A MOVE WHICH CRITICS OF THE GOVERNMENT CLAIM WAS DESIGNED TO DELAY EVEN FURTHER THE APPOINTMENT OF TENURED JUDGES AND PROSECUTORS AND TO PROLONG THE RELIANCE ON PROVISIONAL AND TEMPORARY OFFICIALS MORE SUSCEPTIBLE TO MANIPULATION BY THE EXECUTIVE BRANCH.

THERE IS A THREE-TIER COURT STRUCTURE: LOWER COURTS, SUPERIOR COURTS, AND THE SUPREME COURT. THE JUSTICE SYSTEM IS GENERALLY BASED ON THE NAPOLEONIC CODE. IN THE CIVILIAN COURTS, CRIMINAL CASES MUST MOVE THROUGH A TOTAL OF THREE DISTINCT PROSECUTORIAL AND JUDICIAL PHASES. THE FIRST PHASE TAKES PLACE IN A LOWER COURT WHERE A PUBLIC MINISTRY PROSECUTOR INVESTIGATES CASES AND SUBMITS AN OPINION TO AN EXAMINING JUDGE WHO INITIALLY DETERMINES WHETHER THERE IS SUFFICIENT EVIDENCE TO ISSUE AN INDICTMENT. IF THERE IS, THE JUDGE STUDIES THE CASE, CONDUCTS ALL NECESSARY INVESTIGATIONS, AND PREPARES A CASE REPORT FOR DELIVERY TO THE SUPERIOR COURT PROSECUTOR. IN THE SECOND PHASE, THE SUPERIOR COURT PROSECUTOR REVIEWS THE LOWER COURT DECISION AND, IF THE REVIEW RESULTS

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IN FORMAL CHARGES, RENDERS AN ADVISORY OPINION TO A SUPERIOR COURT WHERE A THREE-JUDGE PANEL HOLDS AN ORAL TRIAL. ALL CRIMINAL CASE CONVICTIONS IN THE CIVILIAN COURTS MUST PROCEED TO THE FINAL PHASE, WHERE THE SUPREME COURT HEARS APPEALS AND CONFIRMS OR REJECTS THE SUPERIOR COURT SENTENCES.

A 1993 AMENDMENT TO THE ANTI-TERRORISM STATUTES ELIMINATED CONVICTIONS IN ABSENTIA OF SUSPECTED TERRORISTS. ACCORDINGLY, ALL DEFENDANTS NOW HAVE THE RIGHT TO BE PRESENT AT THEIR TRIAL. DEFENDANTS ALSO HAVE THE RIGHT TO COUNSEL. HOWEVER, THE GOVERNMENT OFTEN FAILS TO PROVIDE INDIGENT DEFENDANTS WITH QUALIFIED ATTORNEYS.

UNDER THE MILITARY JUSTICE SYSTEM, JUDGES IN THE LOWER MILITARY COURTS DO HAVE THE POWER TO SENTENCE AND ARE REQUIRED TO PASS JUDGMENT WITHIN TEN DAYS OF A TRIAL'S OPENING. DEFENDANTS MAY THEN APPEAL THEIR SENTENCES TO THE SUPERIOR MILITARY COUNCIL WHICH, IN TURN, HAS TEN DAYS TO MAKE ITS DECISION. A FINAL APPEAL MAY BE MADE TO THE SUPREME COUNCIL OF MILITARY JUSTICE, WHICH MUST ISSUE ITS RULING WITHIN FIVE DAYS. WHILE TERRORISM CASES ARE TRIED IN CIVILIAN COURTS, CASES OF TREASON, OR AGGRAVATED TERRORISM MAY BE TRIED ONLY BEFORE MILITARY COURTS. HUMAN RIGHTS GROUPS CHARGED THAT THE VAGUELY WORDED DEFINITIONS OF CERTAIN CRIMES IN THE ANTI-TERRORISM STATUTES OFTEN LEAD MILITARY JUDGES TO ISSUE SENTENCES DISPROPORTIONATE TO THE CRIMES COMMITTED.

HUMAN RIGHTS GROUPS HAVE STRONGLY CRITICIZED THE POWER OF THE MILITARY COURTS TO TRY CIVILIANS AND THE POWERLESSNESS OF THE CIVILIAN JUDICIAL SYSTEM TO REVIEW MILITARY COURT DECISIONS. IN 1997, GUSTAVO ADOLFO CESTI HURTADO, AN INSURANCE BROKER WHO HAD RETIRED FROM MILITARY SERVICE 13 YEARS EARLIER, WAS ARRESTED, PROSECUTED, CONVICTED, AND SENTENCED TO PRISON BY THE MILITARY JUSTICE SYSTEM IN A COMPLICATED CASE INVOLVING, IN PART, ALLEGED INSURANCE FRAUD IN A MILITARY PURCHASE OF HELICOPTERS. WHEN A CIVILIAN COURT APPROVED A HABEAS CORPUS PETITION AND ORDERED THE MILITARY COURT TO RELEASE CESTI, THE MILITARY JURISDICTION NOT ONLY REFUSED TO DO SO BUT ALSO CHARGED THE CIVILIAN JUDGES WITH USURPATION OF POWER AND SOUGHT TO HAVE THEM REASSIGNED. THE CASE IS NOW BEFORE THE INTER-AMERICAN COURT OF HUMAN RIGHTS.

IN MAY, CONGRESS ACCEDED TO PRESIDENT FUJIMORI'S REQUEST TO DELEGATE TO THE EXECUTIVE BRANCH EXCLUSIVE POWERS FOR A 15-DAY PERIOD TO PROMULGATE MEASURES SPECIFICALLY DESIGNED TO COMBAT THE GROWING WAVE OF VIOLENT STREET CRIME. IN A SERIES OF 11 LEGISLATIVE DECREES, THE GOVERNMENT CLASSIFIED ACTS OF "EXTREME

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VIOLENCE," SUCH AS CRIMINAL GANG ACTIVITY AND THE USE OF EXPLOSIVES, AS "AGGRAVATED TERRORISM," TO BE AUTOMATICALLY TRIED BY THE MILITARY COURTS, WITH A MAXIMUM PENALTY OF LIFE IMPRISONMENT. IN THE CASE OF "AGGRAVATED CRIMES," SUCH AS HOMICIDE AND KIDNAPPING, THE JUDICIAL PROCEEDINGS WOULD BE SO ACCELERATED AS TO INCREASE THE LIKELIHOOD OF INNOCENT PERSONS BEING CONVICTED, AS WAS THE CASE IN MANY TERRORISM AND TREASON CASES. IN THE PROVINCES OF LIMA AND CALLAO, ONLY TWO JUDGES WOULD BE ABLE TO HEAR PETITIONS FOR HABEAS CORPUS, INSTEAD OF 40 TO 50 JUDGES AS BEFORE, THEREBY DRASTICALLY DELAYING JUSTICE. ACCUSED CRIMINALS WOULD BE ABLE TO HAVE THEIR SENTENCES REDUCED IF THEY REPENT AND FINGER OTHER INDIVIDUALS, THEREBY INCREASING THE LIKELIHOOD OF SERIOUS ABUSES, AS WAS THE CASE WITH THE REPENTANCE LAW FOR TERRORISTS. FINALLY, THE GOVERNMENT CREATED THE NATIONAL INTELLIGENCE DIRECTORATE FOR SOCIAL PEACE AND SAFETY, THEREBY INTENSIFYING STILL FURTHER THE ROLE OF THE NATIONAL INTELLIGENCE SERVICE IN PUBLIC LIFE.

PROCEEDINGS IN TERRORISM CASES IN THE CIVILIAN COURTS, AND PARTICULARLY IN TREASON CASES IN THE MILITARY COURTS, DO NOT MEET INTERNATIONALLY ACCEPTED STANDARDS OF OPENNESS, FAIRNESS, AND DUE PROCESS. IN PRACTICE, MILITARY COURTS HOLD TREASON TRIALS IN SECRET, ALTHOUGH SUCH SECRECY IS NOT REQUIRED BY LAW.

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. DEFENSE ATTORNEYS IN TREASON TRIALS ARE NOT PERMITTED ADEQUATE ACCESS TO THE FILES CONTAINING THE STATE'S EVIDENCE AGAINST THEIR CLIENTS; NOR ARE THEY ALLOWED TO QUESTION POLICE OR MILITARY WITNESSES EITHER BEFORE OR DURING THE TRIAL.

HUMAN RIGHTS GROUPS CHARGE THAT SOME MILITARY JUDGES HAVE SENTENCED DEFENDANTS WITHOUT HAVING FIRST NOTIFIED THEIR LAWYERS THAT THEIR CLIENTS' TRIALS HAD EVEN BEGUN. BETWEEN JANUARY AND JULY OF 1998, THE MILITARY COURTS TRIED 116 CASES OF TREASON. OF THESE, 66 RESULTED IN A SENTENCE, 48 WERE REMITTED TO THE CIVILIAN JURISDICTION TO BE CHARGED WITH TERRORISM, AND TWO WERE ACQUITTED. OF THE 66 THAT WERE SENTENCED, 29 RECEIVED A LIFE SENTENCE.

IN JUNE, THE SUBJECT OF DUE PROCESS IN THE MILITARY COURTS CAPTURED THE HEADLINES WHEN THEN PRIME MINISTER JAVIER VALLE Riestra RECOMMENDED IN A TELEVISION INTERVIEW THAT U.S. CITIZEN LORI BERENSON, WHO WAS CONVICTED IN MILITARY COURT IN 1996 OF TREASON AGAINST THE FATHERLAND AND IS SERVING A LIFE SENTENCE, BE SIMPLY PARDONED AND EXPELLED. PRESIDENT FUJIMORI IMMEDIATELY REJECTED THAT SUGGESTION. THE PRESS, CONGRESSIONAL AND PUBLIC OPINION ALL STRONGLY

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ENDORSED THAT POSITION, REFLECTING THE WIDELY HELD VIEW IN PERU THAT BERENSON WAS PROPERLY CLASSIFIED AND CONVICTED AS A "TERRORIST." WHEN THE PRESS REPORTED SUGGESTIONS THAT BERENSON MIGHT RECEIVE A FAIRER TRIAL IF SHE WAS RETRIED IN CIVILIAN COURT, THE THEN PRESIDENT OF THE SUPREME COUNCIL OF MILITARY JUSTICE DISMISSED THE IDEA OUTRIGHT, CLAIMING SHE HAD BENEFITTED FROM ALL THE NORMAL DUE PROCESS GUARANTEES OF PERUVIAN LAW DURING HER TRIAL IN THE MILITARY COURTS.

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 BY HUMAN RIGHTS MONITORS AS DOUBLE JEOPARDY. THIS WAS THE MAIN ISSUE THAT LED THE INTER-AMERICAN COURT OF HUMAN RIGHTS IN 1997 TO ORDER THE GOVERNMENT TO RELEASE MARIA ELENA LOAYZA TAMAYO FROM JAIL AND PAY HER COMPENSATION. AFTER THE MILITARY JUSTICE SYSTEM HAD ABSOLVED HER OF TREASON CHARGES, LOAYZA WAS RETRIED FOR TERRORISM BY A CIVILIAN COURT, WHICH SENTENCED HER TO 20 YEARS IN PRISON. ALTHOUGH THE GOVERNMENT RELEASED LOAYZA, IT HAD NOT COMPLIED WITH THE COMPENSATION ORDER BY YEAR'S END.

IN FEBRUARY, U.N. HUMAN RIGHTS COMMISSION SPECIAL RAPPOREUR ON THE INDEPENDENCE OF JUDGES AND LAWYERS, PARAM CUMARASWAMY, PUBLISHED HIS REPORT ON PERU, FOLLOWING HIS SEPTEMBER 1996 VISIT. EVEN THOUGH THE "FACELESS" MILITARY AND CIVILIAN COURTS WERE ABOLISHED IN 1997, AND THE IDENTITIES OF JUDGES IN TREASON AND TERRORISM CASES ARE NO LONGER CONCEALED, THE SPECIAL RAPPOREUR'S CRITICISMS ARE STILL RELEVANT AS TO THE BASIC UNFAIRNESS, THE LACK OF OPENNESS, AND THE DUE PROCESS SHORTCOMINGS THAT ARE CHARACTERISTIC OF THE MILITARY JUSTICE SYSTEM, IN PARTICULAR. CUMARASWAMY ALSO CRITICIZED THE CLIMATE OF IMPUNITY WHICH HAS CHARACTERIZED PERU'S MILITARY JUSTICE SYSTEM EVER SINCE CONGRESS PASSED THE AMNESTY LAWS OF 1995, SAYING THEY RELIEVE THE GOVERNMENT OF ITS OBLIGATION UNDER THE INTERNATIONAL COVENANT OF CIVIL AND POLITICAL RIGHTS TO INVESTIGATE HUMAN RIGHTS VIOLATIONS, AND DEPRIVE THE VICTIMS OF ABUSES OF THEIR RIGHT TO THE TRUTH AND TO AN EFFECTIVE REMEDY.

NEVERTHELESS, THE MILITARY JUDICIAL SYSTEM AND ITS SUPPORTERS IN CONGRESS CONTINUED TO REJECT ANY OUTSIDE SUGGESTION OF REFORM. WHEN, IN MARCH, THE HUMAN RIGHTS OMBUDSMAN INVITED THE MILITARY COURTS TO PARTICIPATE IN A CONFERENCE ON HIS RECOMMENDATIONS FOR REFORM OF THE MILITARY JUSTICE SYSTEM, THE INVITATION WAS IGNORED, AND NOT A SINGLE MILITARY JUDGE OR PROSECUTOR ATTENDED.

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IN THE CIVILIAN JURISDICTION, TERRORISM CASES ARE NOW TRIED BY A NEW SPECIALIZED TERRORISM DIVISION OF THE SUPERIOR COURT, WHICH IS BASED IN LIMA, BUT WHOSE JUDGES TRAVEL TO THE PROVINCES AS NEEDED. HOWEVER, AT THE BEGINNING OF THE YEAR, WHEN THE OLD PROVINCIAL TERRORISM COURTS COULD STILL FUNCTION, THE OLD TERRORISM COURT IN PUNO TRIED FIVE MILITARY PERSONNEL AND ONE CIVILIAN WHO HAD REPORTEDLY BOMBED THE LOCAL AFFILIATE OF A TELEVISION STATION WHICH CARRIED A NATIONAL NEWS PROGRAM KNOWN FOR ITS INVESTIGATIVE REPORTS OF ALLEGED GOVERNMENT WRONGDOING. WHEN THE PUNO COURT ABSOLVED THE DEFENDANTS IN THE CASE, THE NEW SPECIALIZED TERRORISM DIVISION OF THE SUPERIOR COURT IN LIMA ORDERED ALL THE OLD PROVINCIAL TERRORISM COURTS TO CEASE HEARING TERRORISM TRIALS UNLESS ONE OR TWO LIMA-BASED JUDGES WERE INCLUDED ON THE BENCH. THE PUNO COURT DECISION IN THE TELEVISION STATION BOMBING CASE WAS APPEALED TO THE SUPREME COURT WHICH THREW IT OUT IN SEPTEMBER, ORDERING THE CASE TO BE RETRIED.

BESIDES NO LONGER SHIELDING THEIR IDENTITIES, THE JUDGES TRYING SUSPECTED TERRORISTS IN THE REVAMPED CIVILIAN TERRORISM COURTS HOLD THEIR TRIALS INSIDE MAXIMUM-SECURITY PRISONS. ALTHOUGH THE TRIALS ARE THEORETICALLY OPEN TO THE PUBLIC, FEW PEOPLE ATTEND THEM. ACCORDING TO EXPERIENCED HUMAN RIGHTS LAWYERS, MANY OF THE ONCE-"FACELESS" JUDGES HAVE BEGUN TO EMBRACE A MORE BALANCED JUDICIAL CONCEPTION OF GUILT AND INNOCENCE, AND BASE THEIR DECISIONS ON BETTER-REASONED ARGUMENTS THAN BEFORE.

THE AD HOC PARDONS COMMISSION ESTABLISHED BY CONGRESS IN 1996 CONTINUED ITS MISSION TO RECOMMEND PRESIDENTIAL PARDONS FOR PRISONERS BELIEVED TO HAVE BEEN UNJUSTLY CONVICTED OF TERRORISM OR TREASON. THE COMMISSION COMPRISES THE HUMAN RIGHTS OMBUDSMAN AS CHAIRMAN, THE MINISTER OF JUSTICE, AND, REPRESENTING THE PRESIDENT, LONG-TIME PRISON REFORMER FATHER HUBERT LANSSIERS. IN DECEMBER 1997, CONGRESS HAD EXTENDED THE LIFE OF THE COMMISSION UNTIL AUGUST 31, 1998. HOWEVER, IN APRIL, CONGRESS CHARGED THE COMMISSION WITH THE ADDED TASK OF STUDYING THE FILES OF THE SO-CALLED "ARREPENTIDOS," OR REPENTANT TERRORISM AND TREASON CONVICTS, AND RECOMMENDING TO THE PRESIDENT, IN EACH CASE, THE EXTENT TO WHICH THE ORIGINAL SENTENCE MIGHT BE FURTHER COMMUTED. FOR THIS PURPOSE, THE CONGRESS EXTENDED THE LIFE OF THE PARDONS COMMISSION TO DECEMBER 31, 1998. THE REPENTANCE LAW OF 1992 HAD PROVIDED THE "ARREPENTIDOS," OF WHOM SOME 400 REMAIN IN PRISON OUT OF AN ORIGINAL TOTAL OF APPROXIMATELY 8,400, WITH THE OPPORTUNITY TO HAVE THEIR ORIGINAL SENTENCES REDUCED IF THEY ADMITTED THEIR TERRORIST PAST, DEMONSTRATED

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CONTRITION, AND TURNED IN THE NAMES OF OTHER ALLEGED TERRORISTS. IT WAS AS A RESULT OF THIS EXERCISE THAT SO MANY INNOCENT INDIVIDUALS WERE ARRESTED AND CONVICTED FOR TERRORISM AND TREASON.

DURING THE YEAR, 78 DETAINEES WERE PARDONED, BRINGING THE TOTAL OF "INNOCENT" TERRORISM OR TREASON CONVICTS PARDONED AND RELEASED THROUGHOUT THE LIFE OF THE PARDONS COMMISSION TO 438. OF THIS TOTAL, ... HAD BEEN CONVICTED OF TREASON BY MILITARY COURTS AND THE REMAINING ... HAD BEEN CONVICTED OF TERRORISM IN CIVILIAN COURTS. THE LOWER NUMBER OF PARDONS GIVEN TO THOSE TRIED IN MILITARY COURTS MAINLY REFLECTS THE FACT THAT THEY DEALT ONLY WITH THOSE ACCUSED OF AGGRAVATED TERRORISM OR BEING A LEADER OF A TERRORIST ORGANIZATION. THE BASIS FOR A PARDON BEING GRANTED IS NOT ONLY INNOCENCE BUT NO ASSOCIATION WITH TERRORISTS, MAKING IT LESS LIKELY SUCH A PERSON WOULD HAVE BEEN TRIED IN A MILITARY COURT. WORKING ALONG A SECOND TRACK AND BEGINNING IN 1994, LAWYERS BELONGING TO FOUR MAJOR HUMAN RIGHTS NGO'S REPRESENTED PRISONERS WRONGLY CHARGED WITH TERRORISM OR TREASON, BROUGHT THEIR CASES TO THE COURTS, AND WON THE RELEASE OF MANY. FROM JANUARY 1995 THROUGH DECEMBER 1998, THE COURTS DECLARED INNOCENT AND FREED SUCH PRISONERS, BRINGING THE TOTAL OF ALL PRISONERS UNJUSTLY INCARCERATED AND EITHER PARDONED OR EXONERATED TO

ALTHOUGH HUMAN RIGHTS GROUPS HAVE WELCOMED THE WORK OF THE PARDONS COMMISSION, THEY CLAIM THAT GRANTING A PARDON TO PERSONS UNJUSTLY CHARGED STILL LEAVES A CLOUD OF SUSPICION OVER THEIR HEADS. ACCORDINGLY, THEY ARGUE THAT THOSE WHO HAVE BEEN PARDONED SHOULD BE DECLARED INNOCENT, SHOULD HAVE THEIR PAST CRIMINAL RECORD EXPUNGED, AND SHOULD BE FULLY COMPENSATED FOR THE YEARS THEY SPENT IN JAIL. THE PARDONS COMMISSION AGREES WITH THIS ARGUMENT AND, AT YEAR'S END, WAS EXPLORING HOW MOST EFFECTIVELY TO HELP THEM CLEAR THEIR NAMES AND REINTEGRATE THEMSELVES INTO THE COMMUNITY.

IN MAY, THE HUMAN RIGHTS OMBUDSMAN SPONSORED A CONFERENCE ON THE REFORM OF THE CODE OF CRIMINAL PROCEDURES. IN 1997, PRESIDENT FUJIMORI HAD FOR THE SECOND TIME RETURNED A REFORM PROPOSAL TO CONGRESS FOR EXTENSIVE REVISION. REFORM PROPOSALS DISCUSSED AT THE MAY CONFERENCE INCLUDED INSTITUTING NEW ACCUSATORIAL, INVESTIGATIVE AND TRIAL PROCEDURES, AND GRANTING GREATER INVESTIGATIVE AUTHORITY TO CIVILIAN PROSECUTORS.

THERE WERE NO REPORTS OF POLITICAL PRISONERS. SENDERO LUMINOSO AND MRTA MEMBERS CHARGED WITH TERRORISM ARE NOT CONSIDERED TO BE POLITICAL

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PRISONERS.

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

THE CONSTITUTION REQUIRES SECURITY FORCES TO HAVE A WRITTEN JUDICIAL WARRANT TO ENTER A PRIVATE DWELLING.

HOWEVER, THIS REQUIREMENT IS SUSPENDED IN THE EMERGENCY ZONES, WHERE THE SECURITY FORCES ROUTINELY CONDUCT SEARCHES WITHOUT SUCH WARRANTS. THE HUMAN RIGHTS OMBUDSMAN CONTINUED TO RECEIVE COMPLAINTS ABOUT INCIDENTS OF FORCED CONSCRIPTION OF YOUNG MEN, EVEN MINORS, BY UNITS OF THE SECURITY FORCES. ALTHOUGH THE OMBUDSMAN HAS REPEATEDLY RAISED THE ISSUE WITH THE MILITARY AUTHORITIES, THEY CONTINUE TO DENY THAT FORCED CONSCRIPTION IS AN OFFICIAL POLICY, WHILE CONCEDED THAT SOME LOCAL COMMANDERS MAY HAVE ACTED ILLEGALLY.

THE CONSTITUTION ALSO PROVIDES CITIZENS WITH THE RIGHT TO PRIVATE COMMUNICATION, BUT THE MEDIA CONTINUED TO REPORT THAT THE GOVERNMENT HAD VIOLATED THIS RIGHT, ALLEGING THAT IN 1997 GOVERNMENT INTELLIGENCE SERVICES HAD SECRETLY AND SYSTEMATICALLY MONITORED THE TELEPHONE CONVERSATIONS OF NO FEWER THAN 197 INDIVIDUALS, INCLUDING GOVERNMENT OFFICIALS, OPPOSITION POLITICIANS, JOURNALISTS, BUSINESS EXECUTIVES, AND ENTERTAINERS. IN MARCH, FORMER ARMY INTELLIGENCE SERVICE AGENT LUISA MARGARITA ZANATTA MUEDAS, WHO HAD REPORTEDLY FLOWN TO THE UNITED STATES IN SEARCH OF POLITICAL ASYLUM, GRANTED A NUMBER OF TELEVISION AND NEWSPAPER INTERVIEWS IN WHICH SHE GAVE CREDIBLE ACCOUNTS OF THE SIE WIRE-TAPPING OPERATION IN WHICH SHE HAD PARTICIPATED.

OPPOSITION CONGRESSWOMAN ANEL TOWNSEND AND 13 JOURNALISTS WHO HAD BEEN TARGETED BY THE WIRETAPS FILED SUIT, CHARGING THAT THE GOVERNMENT HAD VIOLATED THEIR CONSTITUTIONAL RIGHT TO PRIVACY, AND SEEKING CIVIL DAMAGES. IN MAY, THE CONSTITUTIONAL TRIBUNAL DISMISSED THE SUIT, AND IN JULY, HAVING EXHAUSTED ALL DOMESTIC REMEDIES, TOWNSEND AND THE JOURNALISTS PRESENTED THEIR CASE TO THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, ARGUING THAT THE CONSTITUTION PROHIBITS INTERFERENCE WITH THE SECRECY AND INVIOABILITY OF PRIVATE COMMUNICATIONS. IN ADDITION, THE CONGRESSIONAL COMMITTEE ON DEFENSE, INTELLIGENCE, AND INTERNAL ORDER, CHAIRED BY ONE OF PRESIDENT FUJIMORI'S LOYALISTS, CONDUCTED A LESS THAN COMPREHENSIVE INVESTIGATION OF THE CHARGES. IT ACCEPTED UNQUESTIONABLY THEN NATIONAL INTELLIGENCE SERVICE (SIN) CHIEF JULIO SALAZAR MONROE'S DENIAL THAT THE SIN HAD CARRIED OUT THE WIRE-TAPPING, WHILE REJECTING ONE COMMITTEE MEMBER'S REQUEST THAT WITNESSES MENTIONED BY LUISA ZANATTA BE CALLED TO

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TESTIFY BEFORE THE COMMITTEE. THE COMMITTEE'S FINAL REPORT NOT ONLY EXONERATED THE INTELLIGENCE SERVICES AND SECURITY FORCES, BUT RECOMMENDED THAT THE PUBLIC MINISTRY EXPLORE THE POSSIBILITY OF CHARGING THE AGGRIEVED JOURNALISTS WITH HAVING DISSEMINATED FALSE INFORMATION WHICH HAD TAINTED THE HONOR OF THE MILITARY.

PROMPTED BY THE TERRORISM AND BANDITRY WHICH CHARACTERIZED THE INTERNAL CONFLICT, A NUMBER OF RURAL COMMUNITIES HAVE ORGANIZED THEIR OWN SELF-DEFENSE UNITS, OR "RONDAS," WHICH ARE OFTEN TRAINED, ARMED, AND ENCOURAGED BY THE REGULAR SECURITY FORCES. HOWEVER, SOME MILITARY COMMANDERS GO BEYOND ENCOURAGEMENT AND, AT TIMES, COERCE PEASANTS INTO JOINING THE RONDAS, THEREBY DISRUPTING THEIR HOME AND FAMILY LIFE.

TO A FAR GREATER DEGREE, SENDERO LUMINOSO AND MRTA ARE KNOWN TO HAVE FORCED PEASANTS TO JOIN THEIR RANKS AND PARTICIPATE IN TERRORIST ATTACKS AND EXECUTIONS, SIMILARLY DISRUPTING THEIR HOME AND FAMILY LIFE.

G. USE OF EXCESSIVE FORCE AND VIOLATIONS OF HUMANITARIAN LAW IN INTERNAL CONFLICTS

ACCORDING TO STATISTICS GATHERED BY THE CENTER FOR THE STUDY AND PROMOTION OF DEVELOPMENT, REPORTED IN THE PRESS, AND TAKEN FROM UNOFFICIAL POLICE RECORDS, THE NUMBER OF VIOLENT ATTACKS CARRIED OUT BY THE SENDERO LUMINOSO AND MRTA TERRORIST GROUPS.....1997 LEVELS. THERE WERE SUCH ATTACKS IN 1998, COMPARED WITH 662 IN 1997. HOWEVER, THE TOTAL NUMBER OF DEATHS ATTRIBUTABLE TO THE INTERNAL CONFLICT....., FROM 162 IN 1997 TO IN 1998. THE IN THE NUMBER OF FATALITIES WAS MOST NOTICEABLE AMONG THE CIVILIAN POPULATION. WHEREAS SECURITY FORCE DEATHS, INCLUDING BOTH MILITARY AND POLICE, TO 44 IN 1997, AND TERRORIST DEATHS.... TO 48, THE CIVILIAN TOLL..... BY COMPARISON, FROM 70 IN 1997 TO IN 1998.

IN MARCH, SENDERO LUMINOSO TERRORISTS MURDERED LANDOWNER/LANDLORD WAUDULCO MUNANTE IN SUBURBAN LIMA, SHOOTING HIM IN THE BACK OF THE HEAD, DYNAMITING HIS BODY, ATTACHING A NOTE TO HIS REMAINS DESCRIBING HIM AS AN "EXPLOITER" OF THE PEOPLE, AND LEAVING SENDERO LUMINOSO LITERATURE AT THE SCENE. IN AUGUST, A BAND OF SOME 30 SENDERO LUMINOSO TERRORISTS DRESSED IN MILITARY UNIFORMS ASSASSINATED CELSO RODRIGUEZ VARGAS, THE MAYOR OF SAPOSOA, IN HUALLAGA PROVINCE, SAN MARTIN DEPARTMENT, AFTER SUMMARILY SENTENCING HIM TO DEATH IN A "PEOPLE'S TRIAL." THEY ALSO ATTACKED THE LOCAL PERUVIAN NATIONAL POLICE POST, WHERE THEY MANAGED TO KILL TWO OTHER CIVILIANS. RODRIGUEZ

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VARGAS WAS IN THE MIDST OF HIS REELECTION CAMPAIGN AS A CANDIDATE FOR VAMOS VECINO, THE MUNICIPAL ELECTIONS GROUPING IDEOLOGICALLY ALLIED WITH PRESIDENT FUJIMORI'S NATIONAL POLITICAL MOVEMENT.

SECTION 2 RESPECT FOR CIVIL LIBERTIES,
INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

THE CONSTITUTION PROVIDES FOR FREEDOM OF SPEECH AND OF THE PRESS. HOWEVER, IN PRACTICE, THESE FREEDOMS ARE LIMITED AND THE PRESS PRACTICES A DEGREE OF SELF-CENSORSHIP IN ORDER TO AVOID PROVOKING GOVERNMENT RETRIBUTION.

WHILE THE PRESS REPRESENTS A WIDE SPECTRUM OF OPINION, RANGING FROM LEFT-LEANING OPPOSITION VIEWS TO THOSE FAVORING THE GOVERNMENT, THE 1997 LOSS BY TELEVISION OWNER BARUCH IVCHER OF HIS STATION AND OTHER CASES OF ACCUSING INVESTIGATIVE JOURNALISTS, SUCH AS CESAR HILDEBRANDT, OF TREASON DEMONSTRATE THE LIMITS OF PRESS FREEDOM IN PERU.

THERE IS NO SHORTAGE OF MEDIA, HOWEVER, AS IN THE GREATER LIMA AREA ALONE, THERE ARE 16 DAILY NEWSPAPERS, SEVEN TELEVISION STATIONS, 150 RADIO STATIONS, AND TWO COMMERCIAL CABLE SYSTEMS. THE GOVERNMENT OWNS ONE DAILY NEWSPAPER, ONE TELEVISION NETWORK, AND TWO RADIO STATIONS, NONE OF WHICH IS PARTICULARLY INFLUENTIAL.

TENSIONS CONTINUED DURING THE YEAR BETWEEN THE GOVERNMENT AND THE SEGMENT OF THE MEDIA THAT HAS BEEN VERY CRITICAL OF CERTAIN GOVERNMENT POLICIES AND ACTIONS, AND WHOSE INVESTIGATIVE REPORTING ABOUT ALLEGED OFFICIAL WRONGDOING GENERATED WIDE PUBLIC CRITICISM. THE MOST DISTURBING DEVELOPMENT IN THE AREA OF PRESS FREEDOM CONCERNED AN APPARENTLY ORCHESTRATED CAMPAIGN OF SPURIOUS ATTACKS CARRIED ON IN THE TABLOID AND YELLOW PRESS AGAINST A HANDFUL OF PUBLISHERS AND INVESTIGATIVE JOURNALISTS IN BOTH THE PRINT AND TELEVISION MEDIA. OVER THE PAST YEAR, THESE JOURNALISTS, WHO WRITE INVESTIGATIVE PIECES AND COLUMNS AND ANCHOR TELEVISION NEWS PROGRAMS, HAVE PUBLISHED NEWS STORIES AND EDITORIALS ABOUT ALLEGEDLY CORRUPT MILITARY PROCUREMENT PRACTICES AND ARMS TRANSACTIONS, AS WELL AS ABOUT THE MILITARY STANDOFF ON THE PERU-ECUADOR BORDER. IN FRONT PAGE BANNER HEADLINES AND IN LONG INSIDE PAGE STORIES, FOUR DIFFERENT YELLOW NEWSPAPERS HAVE REPEATEDLY ATTACKED THE INVESTIGATIVE REPORTERS, LABELING THEM AS TRAITORS, ECUADORIAN SPIES, AND TERRORIST SYMPATHIZERS. THE SIMILAR LANGUAGE AND WRITING STYLE EMPLOYED BY ALL FOUR TABLOIDS MADE IT APPEAR AS

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THOUGH A SINGLE ENTITY WAS ORCHESTRATING THE ENTIRE CAMPAIGN OF INTIMIDATION AND DEFAMATION. IN ADDITION, THE INVESTIGATIVE REPORTERS AND THEIR FAMILIES HAVE BEEN THE TARGETS OF TELEPHONED DEATH THREATS AND OTHER HARASSMENT. SOME OF THESE YELLOW NEWSPAPERS HAVE ONLY EXISTED FOR A FEW MONTHS AND ARE ALLEGED TO BE FINANCED AND CONTROLLED BY GOVERNMENT SECURITY FORCES, WHICH INSTIGATED THE CAMPAIGN IN AN ATTEMPT TO PREVENT FURTHER NEGATIVE STORIES ABOUT THE MILITARY WHOSE SENSITIVITY HAS BEEN UNUSUALLY HIGH DUE TO THE TENSION OF THE PERU-ECUADOR BORDER. IF THIS HAS, IN FACT, BEEN THE MOTIVE DRIVING THE CAMPAIGN, ITS SUCCESS HAS BEEN MIXED. WHILE ARTICLES ON SUCH TOPICS AS ALLEGEDLY CORRUPT MILITARY PROCUREMENT PRACTICES AND ARMS TRANSACTIONS HAVE CONTINUED TO APPEAR, THE INVESTIGATIVE REPORTERS THEMSELVES ADMIT THAT THEY OR THEIR EDITORS HAVE HELD BACK SOME STORIES. THE AIM OF SUCH SELF-CENSORSHIP HAS BEEN DESIGNED TO AVOID ANGERING THE REGIME AND RISKING ITS RETALIATION.

THERE WERE OTHER DISTURBING INCIDENTS OF OFFICIAL HARASSMENT AND INTIMIDATION OF THE PRESS. IN AUGUST, TELEVISION JOURNALIST AND NEWS PROGRAM HOST CESAR HILDEBRANDT REVEALED DETAILS OF FOREIGN MINISTER EDUARDO FERRERO COSTA'S TESTIMONY BEFORE A CLOSED SESSION OF A CONGRESSIONAL COMMITTEE ON THE PERUVIAN GOVERNMENT'S POLICY REGARDING THE PERU-ECUADOR BORDER SITUATION. IN RESPONSE, MEMBERS OF THE GOVERNMENT'S MAJORITY PARTY REQUESTED THE APPOINTMENT OF A SPECIAL COMMITTEE OF CONGRESS TO INVESTIGATE THE SOURCE OF THE LEAK AND THE MANNER IN WHICH THE CLASSIFIED INFORMATION HAD REACHED THE AIR. IN ADDITION, A PROSECUTOR WAS NAMED TO PREPARE POSSIBLE CHARGES OF TREASON AND ESPIONAGE AGAINST HILDEBRANDT.

DURING THE YEAR, THREATS AND HARASSMENT CONTINUED AGAINST BARUCH IVCHER AND SOME OF HIS FORMER JOURNALIST AND ADMINISTRATIVE STAFF. IVCHER PURSUED AND EXHAUSTED LEGAL CHANNELS TO REGAIN CONTROL OF HIS STATION AND APPEALED TO INTERNATIONAL ORGANIZATIONS TO HELP RESTORE HIS RIGHTS (SEE SECTION 2.D.). IN A MOVE WHICH DEMONSTRATES THE USE OF THE TAX AUTHORITIES TO HARASS POLITICAL OPPONENTS, IVCHER AND SEVERAL OF HIS STAFF INVOLVED IN HIS OTHER NON-MEDIA RELATED BUSINESS HAVE BEEN CHARGED WITH TAX FRAUD. IVCHER COULD FACE UP TO 12 YEARS' IMPRISONMENT, WHILE HIS SECRETARY ALREADY HAS BEEN IN PRISON FOR SEVERAL MONTHS. STILL OTHERS FROM HIS FORMER TELEVISION STATION WHO RESIGNED IN PROTEST LAST YEAR WHEN THE STATION WAS TAKEN AWAY HAVE ALSO HAD VARIOUS CHARGES LEVELLED AGAINST THEM AND COMPLAIN OF TELEPHONE THREATS AND SURVEILLANCE BY PEOPLE IN UNMARKED CARS.

ONE SUCH CASE OF GOVERNMENT PRESSURE AND INTIMIDATION

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WAS JOSE ARRIETA, WHO HEADED THE INVESTIGATIVE UNIT AT BARUCH IVCHER'S TELEVISION CHANNEL 2, WHERE HE HAD REPORTED ON THE 1997 TORTURE OF FORMER ARMY INTELLIGENCE SERVICE AGENT LEONOR LA ROSA, THE INFLATED ANNUAL INCOME OF SHADOWY PRESIDENTIAL INTELLIGENCE ADVISOR VLADIMIRO MONTESINOS, AND A VARIETY OF OTHER ALLEGED HUMAN RIGHTS ABUSES BY THE INTELLIGENCE SERVICES. THE TAX AUTHORITIES UNDERTOOK AN AUDIT OF HIS TAX RETURN; HE AND HIS FAMILY BEGAN RECEIVING DEATH THREATS; AND HE HIMSELF WAS CHARGED WITH PRESSURING ONE INTELLIGENCE AGENT TO PROVIDE FALSE INFORMATION TO GOVERNMENT INVESTIGATORS AND WITH VIOLATING THE PUBLIC TRUST. AS A RESULT, ARRIETA FLED TO THE UNITED STATES IN JANUARY, SAYING HE INTENDED TO SEEK POLITICAL ASYLUM.

IN APRIL, ISABEL CHUMPITAZ, THE HOST OF A LOCAL RADIO PROGRAM ON COMMUNITY DEVELOPMENT, AND HER HUSBAND WERE MURDERED IN THEIR HOME IN THE NORTHERN CITY OF PIURA. FAMILY MEMBERS ACCUSE THE POLICE OF CARRYING OUT A SLOPPY INVESTIGATION THAT HAS IGNORED THEIR EYEWITNESS ACCOUNT OF THE EVENT, INCLUDING THE FACT THAT THE PERPETRATORS OF THE CRIME YELLED "WHERE IS THE JOURNALIST?" AS THEY ENTERED THE HOUSE. AT YEAR'S END, IT WAS STILL UNCLEAR WHETHER THIS CRIME WAS CRIMINALLY OR POLITICALLY MOTIVATED. ALTHOUGH FIVE JOURNALISTS HAVE BEEN MURDERED IN PERU SINCE 1993, NONE OF THE CASES HAS BEEN SOLVED.

IN MAY, THE RESPECTED DAILY "EL COMERCIO" CHARGED THE GOVERNMENT WITH HAVING TAPPED THE TELEPHONES OF ITS SUNDAY MAGAZINE SECTION, SINCE IT RECEIVED THREATS CONCERNING AN INTERVIEW WITH FORMER PERUVIAN POLICE CAPTAIN JULIO SALAS, WHICH IT HAD NOT YET PUBLISHED.

SALAS, NOW IN HIDING IN MIAMI, HAD PARTICIPATED IN THE 1997 INVESTIGATION OF CHANNEL 2 AND ACCUSED OTHER POLICE OFFICERS OF COVERING UP THEIR ROLE IN THE INVESTIGATION. THE PAPER DENOUNCED THE WIRE-TAPPING AS A GOVERNMENT SCARE TACTIC DESIGNED TO LIMIT PRESS FREEDOM.

IN JULY, THE CONGRESSIONAL COMMITTEE ON DEFENSE, INTELLIGENCE, AND INTERNAL ORDER COMPLETED ITS INVESTIGATION OF ALLEGED WIRE-TAPPING BY GOVERNMENT SECURITY FORCES, CLAIMING IT HAD FOUND NO EVIDENCE TO SUPPORT THE ALLEGATIONS (SEE SECTION 1.F.). THE CHAIRPERSON OF THE COMMITTEE CALLED UPON THE JOURNALISTS WHO HAD MADE THE WIRE-TAPPING ALLEGATIONS TO REVEAL THEIR SOURCES, AND INTRODUCED LEGISLATION THAT WOULD CIRCUMVENT THE CONSTITUTIONAL PROVISION GUARANTEEING THE RIGHT OF JOURNALISTS TO PROTECT THE SECRECY OF THEIR SOURCES.

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

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THE CONSTITUTION PROVIDES FOR THE RIGHT OF PEACEFUL ASSEMBLY, AND THE AUTHORITIES GENERALLY RESPECT THIS RIGHT IN PRACTICE, EXCEPT IN THE EMERGENCY ZONES WHERE THE RIGHT OF ASSEMBLY IS SUSPENDED. PUBLIC GATHERINGS 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.

IN JUNE, JULY, AND AUGUST, FOUR PROTEST RALLIES TOOK PLACE IN CENTRAL LIMA, THE FIRST TWO LARGELY COMPRISING UNIVERSITY STUDENTS WHO WERE DEMONSTRATING AGAINST PRESIDENT FUJIMORI'S AUTHORITARIAN MEASURES AND THE GOVERNMENT'S INABILITY TO PROVIDE ENOUGH JOBS FOR YOUNG PEOPLE ENTERING THE LABOR MARKET. THE THIRD AND FOURTH RALLIES COMPRISED A MORE HETEROGENEOUS AGGLOMERATION OF STUDENTS, LABOR UNION MEMBERS, RETIREES, AND COMMUNITY ACTIVISTS. THESE LATER RALLIES COINCIDED, RESPECTIVELY, WITH THE DELIVERY OF AS MANY AS 1.4 MILLION SIGNATURES PETITIONING FOR A REFERENDUM ON PRESIDENT FUJIMORI'S REELECTION AND WITH THE VOTE IN CONGRESS REJECTING THE REFERENDUM. DURING THE FIRST RALLY, A NUMBER OF THE PARTICIPATING STUDENTS WERE BEATEN AND INJURED BY THE POLICE, SOME SHOP WINDOWS WERE BROKEN, AND ALLEGATIONS WERE MADE THAT GOVERNMENT INTELLIGENCE AGENTS HAD TAKEN PHOTOGRAPHS OF PROTESTERS. AS A RESULT, DURING THE REMAINING RALLIES, OBSERVERS REPRESENTING THE HUMAN RIGHTS OMBUDSMAN WERE ON HAND TO ENSURE AN ORDERLY AND PEACEFUL DEMONSTRATION, A TASK THEY CARRIED OUT EFFECTIVELY.

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

C. FREEDOM OF RELIGION

THE CONSTITUTION PROVIDES FOR FREEDOM OF RELIGION, AND THE GOVERNMENT GENERALLY RESPECTS THIS PROVISION. THE CONSTITUTION RECOGNIZES THE CATHOLIC CHURCH "AS AN IMPORTANT ELEMENT IN THE HISTORICAL, CULTURAL AND MORAL DEVELOPMENT" OF THE NATION, BUT ALSO ESTABLISHES THE SEPARATION OF CHURCH AND STATE. CONVERSION TO OTHER RELIGIONS IS RESPECTED, AND MISSIONARIES ARE ALLOWED TO ENTER THE COUNTRY AND PROSELYTIZE.

ALTHOUGH TEACHING ABOUT ROMAN CATHOLICISM HAS NOT BEEN REQUIRED IN THE PUBLIC SCHOOL SYSTEM SINCE THE EDUCATION REFORMS OF THE 1970'S, MOST SCHOOLS DEVOTE ONE HOUR A WEEK TO SUCH STUDY. PARENTS WHO DO NOT WISH THEIR CHILDREN TO PARTICIPATE IN THESE CLASSES ARE EXPECTED TO SUBMIT A WRITTEN REQUEST FOR AN

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EXEMPTION TO THE SCHOOL PRINCIPAL. NON-CATHOLICS WHO WISH THEIR CHILDREN TO RECEIVE A RELIGIOUS EDUCATION IN THEIR OWN PARTICULAR FAITH ARE FREE TO ORGANIZE SUCH CLASSES DURING THE WEEKLY HOUR ALLOTTED BY THE SCHOOL FOR RELIGIOUS EDUCATION, BUT MUST SUPPLY THEIR OWN TEACHER.

SENDERO LUMINOSO REJECTS RELIGION AND HAS BEEN KNOWN TO THREATEN AND INTIMIDATE RELIGIOUS WORKERS. PRIOR TO 1996, MEMBERS OF THE MORMON CHURCH, IN PARTICULAR, WERE TARGETED BY SENDERO LUMINOSO BOMBINGS AND EXTORTION THREATS. HOWEVER, MORMON CHURCH OFFICIALS HAVE REPORTED NO INCIDENTS IN RECENT YEARS AND ARE NOW EXPANDING THEIR OPERATIONS IN PERU AGAIN. IN AUGUST, THE MORMON CHURCH INAUGURATED A REGIONAL TRAINING CENTER FOR SOUTH AMERICAN MISSIONARIES IN A LIMA SUBURB.

D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

THE CONSTITUTION PROVIDES FOR THE RIGHT TO FREE MOVEMENT. HOWEVER, THIS RIGHT IS SUSPENDED IN THE EMERGENCY ZONES, WHICH COVER 16 PERCENT OF THE COUNTRY'S TERRITORY AND WHERE THE SECURITY FORCES MAY DETAIN TRAVELERS AT WILL. NEVERTHELESS, THE ARMY DOES NOT GENERALLY HINDER TRAVEL IN THESE ZONES. PASSENGERS ON PUBLIC TRANSPORTATION AND DRIVERS IN PRIVATE VEHICLES MAY BE CHECKED AT CONTROL POINTS THROUGHOUT THE COUNTRY.

SENDERO LUMINOSO OCCASIONALLY STILL INTERRUPTS THE FREE MOVEMENT OF PEOPLE, AND REPORTS OF ITS ROADBLOCKS IN SECTIONS OF THE UPPER HUALLAGA VALLEY AND IN THE DEPARTMENT OF AYACUCHO WERE COMMON.

ALTHOUGH THERE ARE NO POLITICAL OR LEGAL CONSTRAINTS ON FOREIGN TRAVEL OR EMIGRATION, THE AUTHORITIES CAN 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. HOWEVER, ACCORDING TO THE NATIONALITY LAW OF 1996, 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 INTEREST AND THE NATIONAL INTEREST." IN 1997, THE GOVERNMENT INVALIDATED THE PERUVIAN NATURALIZATION OF ISRAELI-BORN BARUCH IVCHER, THE MAJORITY OWNER OF TELEVISION STATION CHANNEL 2, WHICH HAD PERSISTENTLY CARRIED STORIES OF GOVERNMENT ABUSE.

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ALTHOUGH THE GOVERNMENT CLAIMED ITS DECISION WAS BASED ON IRREGULARITIES IN IVCHER'S ORIGINAL NATURALIZATION PETITION, OBSERVERS BELIEVE IT WAS THE NATIONALITY LAW WHICH PROVIDED THE GOVERNMENT WITH THE LEGAL BASIS FOR THE REVOCATION. AFTER CHALLENGING THE WITHDRAWAL OF HIS NATIONALITY AND LOSING HIS CASE IN THE LOWER COURTS, IVCHER, WHO WAS OUT OF THE COUNTRY THROUGHOUT THE LEGAL PROCESS, TOOK HIS CASE DIRECTLY TO THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS. IN MARCH, THE COMMISSION DECLARED IVCHER'S CASE ADMISSIBLE; THE GOVERNMENT CHALLENGED THE FINDING OF ADMISSIBILITY ON THE GROUNDS THAT ALL DOMESTIC REMEDIES HAD NOT YET BEEN EXHAUSTED; AND THE COMMISSION RULED AGAINST IT. NEVERTHELESS, IVCHER DID SUBMIT A FINAL APPEAL TO THE CONSTITUTIONAL TRIBUNAL, WHICH DISMISSED IT IN JUNE.

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. THERE ARE PERSONS IN THE COUNTRY WITH REFUGEE STATUS, OF WHOM ARE CUBANS. THESE REFUGEES ARE ALLOWED TO LIVE AND WORK NORMALLY WHILE AWAITING RECEIPT OF THEIR PERMANENT RESIDENCY. OF THE, ONLY ARE STILL AWAITING A PERMIT. EVEN THOUGH PERMANENT RESIDENTS ARE FREE TO APPLY FOR CITIZENSHIP AFTER TWO YEARS IN THE COUNTRY, FEW DO. THE ISSUE OF THE PROVISION OF FIRST ASYLUM DID NOT ARISE IN 1998. THERE WERE NO REPORTS OF THE FORCED RETURN OF PERSONS TO COUNTRIES WHERE THEY FEARED PERSECUTION.

THE CATHOLIC MIGRATION COMMISSION ALSO ADVISES PERUVIAN CITIZENS FEARING PERSECUTION AT HOME AND SEEKING ASYLUM ABROAD. DURING THE YEAR, THE MEDIA FOCUSED HEAVILY ON THREE INDIVIDUALS WHO, WITHOUT CONSULTING THE CATHOLIC MIGRATION COMMISSION, LEFT PERU, FEARING OFFICIAL PERSECUTION. THESE WERE TELEVISION AND NEWSPAPER REPORTER JOSE ARRIETA, WHO HAD INVESTIGATED AND PUBLICIZED MANY OF THE ABUSES COMMITTED BY THE NOTORIOUS COLINA DEATH SQUAD, AND WHO REPORTEDLY SOUGHT ASYLUM IN THE UNITED STATES; FORMER ARMY INTELLIGENCE SERVICE (SIE) AGENT LUISA ZANATTA, WHO REPORTEDLY SOUGHT ASYLUM IN THE UNITED STATES AND, IN INTERVIEWS WITH THE PERUVIAN MEDIA AND THE STAFF OF THE HUMAN RIGHTS OMBUDSMAN, PROVIDED CREDIBLE EVIDENCE OF SIE WIRE-TAPPING AND INFORMATION ABOUT OTHER COLINA DEATH SQUAD OPERATIONS; AND OUSTED CONSTITUTIONAL TRIBUNAL JUDGE DELIA REVOREDO, WHO SOUGHT AND RECEIVED POLITICAL ASYLUM IN COSTA RICA (SEE SECTION 4).

AS A RESULT OF THE POLITICAL VIOLENCE WHICH ACCOMPANIED THE INTERNAL CONFLICT OF THE 1980'S AND

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EARLY 1990'S, SEVERAL HUNDRED THOUSAND PEOPLE WERE DISPLACED FROM THEIR ORIGINAL HOMES, THEREBY CREATING SERIOUS SOCIO-ECONOMIC PROBLEMS WHICH, FOR THE MOST PART, REMAIN UNSOLVED. THE GOVERNMENT'S SUPPORT PROGRAM FOR THE REPOPULATION AND DEVELOPMENT OF EMERGENCY ZONES (PAR) ESTIMATES THE TOTAL NUMBER OF INTERNALLY DISPLACED PEOPLE AT SOME 600,000, WHILE THE NATIONAL ROUNDTABLE ON THE DISPLACEMENT OF PEOPLE AFFECTED BY POLITICAL VIOLENCE, AN UMBRELLA ORGANIZATION CREATED IN 1993 AND COORDINATING THE ACTIVITIES OF 58 NGO'S WORKING WITH THE INTERNALLY DISPLACED, ESTIMATES THE NUMBER OF INHABITANTS OF RURAL AREAS AND INDIGENOUS COMMUNITIES WHO WERE DISPLACED AT APPROXIMATELY 425,000. 80 PERCENT OF THESE MAY BE FOUND IN AND AROUND LIMA AND A NUMBER OF OTHER MAJOR CITIES. HOWEVER, BESIDES THIS RURAL-TO-URBAN DISPLACEMENT, THERE WAS SUBSTANTIAL RURAL-TO-RURAL MIGRATION, AS WELL AS MANY PEOPLE WHOSE HOMES WERE DESTROYED AND WHOSE LIVES WERE DISRUPTED, BUT WHO RESISTED THE ENCROACHMENT OF TERRORIST GROUPS BY FORMING CIVILIAN SELF-DEFENSE COMMITTEES AND THEREBY MANAGED TO REMAIN IN THEIR HOME COMMUNITIES. THERE IS ALSO A LARGE POPULATION OF INDIGENOUS ASHANINKAS IN THE CENTRAL JUNGLE REGION WHO FACE NOT ONLY A TERRORIST THREAT BUT THE EXPANSION ONTO THEIR LANDS OF CERTAIN OIL EXPLORATION COMPANIES, WHICH DO NOT CONSULT THEM IN ADVANCE.

WHILE PAR ESTIMATES THE NUMBER OF INTERNALLY DISPLACED WHO HAVE ALREADY RETURNED TO THEIR HOME COMMUNITIES AT 350,000, THE ROUNDTABLE CLAIMS THAT ONLY SOME 68,000 HAVE DONE SO. HOWEVER, BOTH PAR AND THE ROUNDTABLE ARE IN AGREEMENT THAT ONLY 15,000 HAVE SO FAR BEEN ASSISTED IN THEIR RETURN BY PAR. PAR TENDS TO CONCENTRATE ON INFRASTRUCTURE DEVELOPMENT IN THE COMMUNITIES TO WHICH DISPLACED PERSONS ARE DESTINED TO RETURN, BUILDING ROADS, BRIDGES, UTILITY LINES, SCHOOL ROOMS, HEALTH CENTERS, AND THE LIKE. PAR ALSO PROVIDES THE RETURNEES WITH AN INITIAL SUPPLY OF AGRICULTURAL TOOLS, SEEDS, FOOD, MEDICINES, BLANKETS, AND KITCHEN UTENSILS. THE NGO'S, ON THE OTHER HAND, FOCUS ON THE TRAINING OF THE RETURNEES IN SELF-ADVOCACY AND ON THE DEVELOPMENT OF VOCATIONAL SKILLS. ONE SPECIAL PROBLEM RELATED TO DISPLACED PERSONS IS THE LACK OF BASIC DOCUMENTATION, SUCH AS BIRTH CERTIFICATES AND VOTER REGISTRATION CARDS. MANY OF THE DISPLACED WERE NOT EXPECTED TO BE ABLE TO VOTE IN THE MUNICIPAL ELECTIONS, SINCE THE DOCUMENTATION PROCESS IS LENGTHY AND, IN THE CASE OF THE MEN, CAN ONLY BE COMPLETED ONCE THE RETURNEES HAVE REGULARIZED THEIR STATUS WITH RESPECT TO THEIR MILITARY SERVICE OBLIGATIONS. A SECOND PROBLEM IS THE LEGAL CLOUD OVER MANY DISPLACED PERSONS WHO ALSO FALL INTO THE CATEGORY OF "REQUISITORIADOS," THAT IS, PERSONS WHO WERE FORCED TO JOIN TERRORIST GROUPS AND CONTINUE TO HAVE DETENTION ORDERS ISSUED AGAINST

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

THE CONSTITUTION PROVIDES FOR THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT, ALTHOUGH THE LAW BARS GROUPS THAT ADVOCATE THE VIOLENT OVERTHROW OF THE GOVERNMENT FROM PARTICIPATING IN THE POLITICAL PROCESS. VOTING IS BY SECRET BALLOT AND IS MANDATORY FOR ALL CITIZENS BETWEEN THE AGES OF 18 AND 70. HOWEVER, MEMBERS OF THE ARMED FORCES AND THE POLICE, AS WELL AS PRISONERS, ARE INELIGIBLE TO VOTE.

IN ACCORDANCE WITH PROVISIONS IN THE 1993 CONSTITUTION, PRESIDENT FUJIMORI RAN FOR A SECOND FIVE-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..... SEATS ARE HELD BY MEMBERS OF FUJIMORI'S CAMBIO 90/NUEVA MAYORIA MOVEMENT. THE REMAINING..... MEMBERS REPRESENT 11 OPPOSITION PARTIES. THE ELECTIONS LAW OF 1997 REQUIRES EACH OF THE PARTICIPATING POLITICAL PARTIES TO PREPARE ITS NATIONAL LIST OF RANKED CANDIDATES, AND THE 120 MEMBERS OF THE UNICAMERAL LEGISLATURE ARE ELECTED FROM THESE PARTY LISTS IN PROPORTION TO THE NUMBER OF VOTES RECEIVED BY EACH PARTY.

THE CONTROVERSY OVER PRESIDENT FUJIMORI'S ELIGIBILITY TO SEEK REELECTION CONTINUED THROUGHOUT THE YEAR. IN AUGUST 1996, FUJIMORI'S CONTROLLING CONGRESSIONAL MAJORITY INTERPRETED THE CONSTITUTIONAL PROVISION LIMITING PRESIDENTS TO NO MORE THAN TWO CONSECUTIVE TERMS IN OFFICE TO PERMIT HIM TO RUN FOR A THIRD CONSECUTIVE TERM IN 2000, CLAIMING THAT IT WOULD BE ONLY HIS SECOND TERM UNDER THE 1993 CONSTITUTION. WHEN OPPONENTS OF THE INTERPRETIVE LAW CHALLENGED ITS CONSTITUTIONALITY BEFORE THE 7-MEMBER CONSTITUTIONAL TRIBUNAL, THREE OF ITS MEMBERS DECLARED THAT THE LAW, ALTHOUGH NOT NECESSARILY UNCONSTITUTIONAL, WAS "INAPPLICABLE" TO THE FUJIMORI CASE, WHEREUPON CONGRESS REMOVED THEM FROM OFFICE. THIS ACTION EFFECTIVELY PARALYZED THE TRIBUNAL'S ABILITY TO RULE ON CONSTITUTIONAL ISSUES, A FUNCTION WHICH REQUIRES A QUORUM OF AT LEAST SIX JUDGES.

IN ADDITION TO CHALLENGING THE CONSTITUTIONALITY OF THE INTERPRETIVE LAW, OPPONENTS OF A FUJIMORI REELECTION ATTEMPTED TO TAKE ADVANTAGE OF PROVISIONS OF THE CONSTITUTION WHICH PROVIDE THAT A REFERENDUM CAN BE HELD ON ANY LAW IF TEN PERCENT OF THE ELECTORATE SO PETITION. IN THE FALL OF 1996, THEY LAUNCHED A SIGNATURE DRIVE TO PETITION FOR A NATIONAL REFERENDUM THAT WOULD REPEAL THE INTERPRETIVE LAW.

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IN ORDER TO BLOCK THIS INITIATIVE, THE MAJORITY IN CONGRESS PASSED A LAW STIPULATING THAT FOR A REFERENDUM TO TAKE PLACE IT HAD TO BE APPROVED BY AT LEAST TWO-FIFTHS OF THE CONGRESS, OR 48 MEMBERS. EVEN THOUGH, IN OCTOBER 1996, THE NATIONAL BOARD OF ELECTIONS RULED THAT THE LAW COULD NOT BE APPLIED RETROACTIVELY TO A SIGNATURE DRIVE WHICH WAS ALREADY UNDERWAY, THE CONGRESS KILLED THE REFERENDUM.

IN JULY, THE CAMPAIGN FOR A REFERENDUM ON A FUJIMORI REELECTION REACHED A CLIMAX WHEN THE DEMOCRATIC FORUM, THE NONGOVERNMENTAL ENTITY SPONSORING THE REFERENDUM CAMPAIGN, DELIVERED TO THE NATIONAL OFFICE OF ELECTION PROCEDURES A PETITION FOR REFERENDUM CONTAINING 1.4 MILLION SIGNATURES. HOWEVER, AS SOON AS THE PROCESS OF COUNTING THE SIGNATURES AND VERIFYING THEIR VALIDITY GOT UNDERWAY, FORCES ALLIED WITH THE GOVERNMENT'S SYMPATHIZERS IN CONGRESS BEGAN TO CHALLENGE THE LEGALITY OF THE REFERENDUM PROCESS.

THE FIRST TECHNICAL CHALLENGE WAS QUICKLY OVERRULED BY THE NATIONAL BOARD OF ELECTIONS. THE SECOND CHALLENGE RESURRECTED THE 1996 ATTEMPT TO BLOCK THE SIGNATURE DRIVE, CLAIMING THAT, FOR THE REFERENDUM TO TAKE PLACE, THE QUESTION POSED BY THE REFERENDUM MUST FIRST BE APPROVED BY 48 MEMBERS OF CONGRESS. THE REFERENDUM'S PROMOTERS HOPED THAT, SINCE THE NATIONAL BOARD OF ELECTIONS HAD DISMISSED THE IDENTICAL CHALLENGE TWO YEARS EARLIER, IT WOULD DO SO AGAIN. HOWEVER, BY A VOTE OF 4 TO 1, THE NEWLY RECONSTITUTED NATIONAL BOARD OF ELECTIONS THREW THE QUESTION OF A REFERENDUM INTO CONGRESS'S LAP. AFTER PLACING THE ISSUE OF THE REFERENDUM ON A PROCEDURAL FAST TRACK IN AN EFFORT TO PREVENT THE DEMOCRATIC FORUM FROM CONSOLIDATING SUPPORT FOR IT, CONGRESS REJECTED THE IDEA ON AUGUST 27. ONLY 45 MEMBERS, INSTEAD OF THE REQUISITE 48, VOTED IN SUPPORT OF IT. A RESPECTED OPINION POLL SHOWING THAT 77 PERCENT OF RESPONDENTS WERE IN FAVOR OF A REFERENDUM DEMONSTRATED THE LENGTHS TO WHICH THE GOVERNMENT IS WILLING TO GO TO ENSURE FUJIMORI CAN RUN FOR A THIRD TERM.

SUCH TACTICS HAVE FUELED OPPOSITION SUSPICIONS OF POSSIBLE FRAUD IN THE 2000 ELECTION AS WELL AS CHARGES THAT THE NATIONAL INTELLIGENCE SERVICE HAD PLANTED UNDERCOVER AGENTS INSIDE THE NATIONAL VOTER REGISTRATION BUREAU. CONGRESS APPOINTED A SUBCOMMITTEE WHOSE INVESTIGATION UNCOVERED CREDIBLE EVIDENCE NOT ONLY OF INTELLIGENCE SERVICE INFILTRATION OF THE VOTER REGISTRATION AGENCY, BUT ALSO OF INCOMPETENCE IN CONTRACT ADMINISTRATION AND OF MASSIVE EMBEZZLEMENT OF FUNDS. WITHOUT WAITING FOR THE LAW TO CATCH UP WITH THEM, THE DIRECTOR OF THE NATIONAL VOTER REGISTRATION BUREAU AND A NUMBER OF HIS SENIOR STAFF FLED THE COUNTRY. IN AN EFFORT TO SANITIZE THE BUREAU'S IMAGE AND REPUTATION, THE

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NATIONAL JUDICIARY COUNCIL, IN CONJUNCTION WITH THE BUREAU'S OWN ADVISORY COUNCIL, CONDUCTED AN UNUSUALLY OPEN AND TRANSPARENT SEARCH AND COMPETITION FOR THE MOST QUALIFIED CANDIDATE AVAILABLE TO BE THE BUREAU'S NEXT DIRECTOR. AS A RESULT, CELDONIO MENDEZ, A SYSTEMS ENGINEER WITH NO APPARENT LOYALTY TO THE FUJIMORI ADMINISTRATION, WAS APPOINTED TO HEAD THE AGENCY.

PERHAPS THE MOST EGREGIOUS ACT OF ELECTION-RELATED MANIPULATION TOOK PLACE IN MAY, WHEN CONGRESS ALTERED THE VOTING PROCEDURE ON THE NATIONAL BOARD OF ELECTIONS TO FAVOR A POTENTIAL FUJIMORI CANDIDACY. WITH TWO OF THE FIVE SEATS ON THE BOARD ALREADY OCCUPIED BY REPRESENTATIVES OF JUDICIAL INSTITUTIONS WHO MAY BE RELIED ON TO CONSISTENTLY TAKE PRO-FUJIMORI STANDS, CONGRESS RAISED THE NUMBER OF VOTES NEEDED TO APPROVE CHALLENGES TO SPECIFIC CANDIDACIES FROM THE PREVIOUS SIMPLE MAJORITY OF THREE TO FOUR, THEREBY ENSURING THAT NO CHALLENGE TO A FUJIMORI CANDIDACY WAS LIKELY TO SUCCEED.

IN JUNE, THE TERMS OF OFFICE OF TWO OF THE FIVE MEMBERS OF THE NATIONAL BOARD OF ELECTIONS, INCLUDING THAT OF THE PRESIDENT OF THE BOARD, CAME TO AN END, NECESITATING REPLACEMENTS TO BE ELECTED. THE PRESIDENT'S SLOT, WHICH IS ALWAYS FILLED BY THE NOMINEE OF THE SUPREME COURT JUSTICES, WENT TO LUIS SERPA SEGURA, A PERMANENT JUDGE OF THE SUPREME COURT.

THE OTHER SLOT, ALWAYS ASSIGNED TO THE NOMINEE OF THE SUPREME COURT PROSECUTORS, WAS FILLED BY JOSE CARLOS BRINGAS, AN UNTENURED PROSECUTOR WHOSE LOYALTY TO THE GOVERNMENT WAS TAKEN FOR GRANTED BY THE POLITICAL OPPOSITION.

WOMEN AND SOME MINORITIES ARE REPRESENTED IN GOVERNMENT AND ACTIVELY PARTICIPATE IN POLITICS. THERE ARE 13 FEMALE MEMBERS OF CONGRESS. IN ADDITION, ONE OF 15 CABINET MINISTERS AND SEVERAL VICE-MINISTERS ARE WOMEN, AS ARE THREE OF THE 32 JUDGES OF THE SUPREME COURT. A NATIONWIDE DRIVE WAS CONDUCTED TO REPLACE THE CITIZENSHIP PAPERS AND VOTER REGISTRATION CARDS LOST BY WOMEN WHO WERE DISPLACED BY THE INTERNAL CONFLICT AND WHO RETURNED TO THEIR ORIGINAL COMMUNITIES IN TIME FOR THE 1998 MUNICIPAL ELECTIONS AND FOR THE 2000 NATIONAL ELECTIONS. FOR THE FIRST TIME IN THE COUNTRY'S ELECTORAL HISTORY, THE 1998 MUNICIPAL ELECTIONS WERE HELD UNDER THE NEW LAW MANDATING THAT ALL PARTY CANDIDATE LISTS FOR CONGRESSIONAL AND MUNICIPAL ELECTIONS MUST INCLUDE AT LEAST 25 PERCENT WOMEN AND AT LEAST 25 PERCENT MEN.

PERUVIANS OF ASIAN DESCENT HOLD LEADERSHIP POSITIONS IN GOVERNMENT; PRESIDENT FUJIMORI IS OF JAPANESE DESCENT. THERE ARE SEVERAL INDIGENOUS MEMBERS OF

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CONGRESS, AND A RECENT VICE-PRESIDENT WAS A QUECHUA SPEAKER, AS IS ANTONIO PAUCAR CARBAJAL, THE PRESENT MINISTER OF TRANSPORTATION AND COMMUNICATIONS. HOWEVER, IT IS RARE FOR INDIGENOUS PEOPLE, WHO MAKE UP 45 PERCENT OF THE POPULATION, TO REACH THE HIGHEST LEADERSHIP RANKS IN THE PUBLIC SECTOR. THE BLACK MINORITY, UNOFFICIALLY ESTIMATED AT 8 TO 10 PERCENT OF THE TOTAL POPULATION, IS NOT AT ALL REPRESENTED IN THE LEADERSHIP OF ANY BRANCH OF THE GOVERNMENT, AND THERE ARE NO BLACKS IN THE CONGRESS.

SECTION 4 GOVERNMENTAL ATTITUDE REGARDING
INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF
ALLEGED VIOLATIONS OF HUMAN RIGHTS

IN GENERAL, THE GOVERNMENT PERMITTED NUMEROUS NON-GOVERNMENTAL ORGANIZATIONS (NGO'S) DEDICATED TO MONITORING AND ADVANCING HUMAN RIGHTS TO OPERATE FREELY. HOWEVER, SINCE OCTOBER 1997, THE MINISTER OF THE INTERIOR HAS DENIED ICRC THE OPPORTUNITY TO CONDUCT INTERVIEWS WITH DETAINEES WITHOUT WITNESSES PRESENT IN NATIONAL COUNTER-TERRORISM DIRECTORATE DETENTION CELLS IN LIMA (SEE SECTION 1.C.). MILITARY COMMANDERS OFTEN LIMITED THE FREEDOM OF LOCAL AND INTERNATIONAL HUMAN RIGHTS MONITORS TO INVESTIGATE ABUSES IN THE EMERGENCY ZONES.

GOVERNMENT, MILITARY, JUDICIAL, AND POLICE OFFICIALS, AS WELL AS SOME MAJORITY MEMBERS OF CONGRESS, CONTINUED TO CRITICIZE HUMAN RIGHTS GROUPS FOR THEIR ALLEGED BIAS AGAINST THE AUTHORITIES AND IN FAVOR OF THE "LEFTIST GUERRILLAS." DIALOGUE BETWEEN THE NONGOVERNMENTAL HUMAN RIGHTS COMMUNITY AND THE AUTHORITIES WAS ALMOST NONEXISTENT.

MOST HUMAN RIGHTS NGO'S ARE INDEPENDENT, THOROUGH, AND USUALLY OBJECTIVE. IN 1985, A NUMBER OF THEM JOINED FORCES TO FORM AN UMBRELLA ORGANIZATION, THE NATIONAL COORDINATING COMMITTEE FOR HUMAN RIGHTS. THE COORDINADORA, WHICH NOW COMPRISES SOME 50 MEMBER ORGANIZATIONS, ADHERES STRICTLY TO A POLICY OF NON-POLITICIZING THEIR POSITIONS ON HUMAN RIGHTS ISSUES, ALTHOUGH ITS CONSTITUENT MEMBERS MAY DO SO IN THEIR OWN NAMES. THE COORDINADORA IS IN THE PROCESS OF INTEGRATING ITS LIMA-BASED AND PROVINCE-BASED MEMBER ORGANIZATIONS INTO A MORE COHESIVE BODY WHICH WILL BE IN A BETTER POSITION TO ACT QUICKLY AND FORCEFULLY, AND TO SPEAK WITH A UNIFIED VOICE.

THE COORDINADORA HAS ALSO ENHANCED ITS COLLABORATION WITH THE HUMAN RIGHTS OMBUDSMAN. SOME OF ITS MEMBER ORGANIZATIONS CONDUCT INTENSIVE HUMAN RIGHTS EDUCATION AND CITIZEN EMPOWERMENT WORKSHOPS FOR TRAINING LOCAL COMMUNITY LEADERS IN HUMAN RIGHTS PROBLEM-SOLVING AND CITIZEN ADVOCACY STRATEGIES. IN

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ADDITION, A NUMBER OF THE COMPONENT ORGANIZATIONS OF THE COORDINADORA HAVE CONTINUED TO WORK CLOSELY WITH THE PARDONS COMMISSION, SUBMITTING FOR ITS CONSIDERATION THE DOCUMENTED CASES OF INNOCENT PRISONERS UNJUSTLY CHARGED AND CONVICTED OF TERRORISM OR TREASON OFFENSES (SEE SECTION 1.E.).

SINCE JORGE SANTISTEVAN'S APPOINTMENT AS THE FIRST HUMAN RIGHTS OMBUDSMAN IN 1996, HIS OFFICE HAS STEADILY GROWN IN STATURE AND IS CONSIDERED TO BE THE MOST INDEPENDENT AND EFFECTIVE FORCE IN THE COUNTRY FOR BRINGING JUSTICE TO THE PEOPLE. BY HIS OWN CHARACTERIZATION, THE OMBUDSMAN IS A WHISTLE-BLOWER, HAVING NO ENFORCEMENT POWER AND USING ONLY MORAL SUASION TO INFLUENCE THE AUTHORITIES TO COMPLY WITH THEIR OBLIGATIONS. HOWEVER, HE ENJOYS INVESTIGATIVE INDEPENDENCE, AS WELL AS THE ABILITY TO INFORM THE PUBLIC OF HIS CONCLUSIONS AND RECOMMENDATIONS. SANTISTEVAN'S ACHIEVEMENTS INCLUDE 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); THE INFLUENCE HE HAS EXERTED ON THE CONGRESS TO REPEAL A NUMBER OF LAWS AND POLICIES WHICH DISCRIMINATED AGAINST WOMEN (SEE SECTION 5); THE PUBLIC'S TRUST IN HIM AND ACCEPTANCE OF HIS LEGITIMACY; HIS SUCCESS IN IMPARTING TO GOVERNMENT OFFICIALS A STRONGER SENSE OF OBLIGATION AND SERVICE TO THE PUBLIC; AND HIS OVERALL CONTRIBUTION TO THE WOMEN'S RIGHTS AND CONSUMERS' RIGHTS MOVEMENTS.

DURING THE YEAR, MAJOR MISSIONS TO PERU WERE UNDERTAKEN BY THE U.N. WORKING GROUP ON ARBITRARY DETENTION, THE INTERNATIONAL FEDERATION OF HUMAN RIGHTS, THE U.N. COMMITTEE AGAINST TORTURE, AND THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS. IN ALL THREE CASES, MISSION MEMBERS WERE ALLOWED READY ACCESS TO PRISON FACILITIES AND WERE GRANTED INTERVIEWS WITH A VARIETY OF GOVERNMENT OFFICIALS.

IN NOVEMBER 1997, EIGHT HUMAN RIGHTS LAWYERS WHO HAD DEFENDED SENDERO LUMINOSO TERRORISTS IN THE MILITARY COURTS WERE THEMSELVES ARRESTED AND CHARGED WITH BEING TERRORISTS, TOO. THE LAWYERS WERE UNCONSTITUTIONALLY HELD WITHOUT CHARGE FOR MORE THAN 15 DAYS AND HAD THEIR HABEAS CORPUS PETITIONS DENIED, WHILE SOME OF THEM WERE NOT GIVEN THE OPPORTUNITY TO PRESENT SWORN STATEMENTS IN THEIR CASES, AND ONE OF THEM WAS PROVIDED WITH A MILITARY LAWYER BY THE MILITARY COURT INSTEAD OF BEING AFFORDED A LAWYER OF HIS OWN CHOOSING. IN APRIL, LUIS RAMON LANDAURE, WHO HAD DEFENDED SENDERO LUMINOSO LEADER ABIMAEEL GUZMAN, WAS SENTENCED TO LIFE FOR TREASON, WHILE THE REMAINING LAWYERS WERE COMMITTED TO THE CIVILIAN JURISDICTION FOR TRIAL ON CHARGES OF TERRORISM. THE

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LIMA BAR ASSOCIATION HAS PRESENTED THE CASE OF THE EIGHT LAWYERS TO THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS.

IN APRIL, OUSTED CONSTITUTIONAL TRIBUNAL JUDGE AND DEAN OF THE LIMA BAR ASSOCIATION DELIA REVOREDO CLAIMED THAT SHE WAS BEING THREATENED BY THE NATIONAL INTELLIGENCE SERVICE FOR HER OUTSPOKEN CRITICISM OF UNCONSTITUTIONAL AND AUTHORITARIAN ACTIONS TAKEN BY THE FUJIMORI REGIME. SHE ALSO MAINTAINED THAT THE CUSTOMS FRAUD CHARGES BROUGHT AGAINST HER BUSINESSMAN HUSBAND JAIME MUR FOR IMPORTING A USED CAR ON WHICH HE PAID THE TAXES AND DUTIES WERE NOTHING MORE THAN A PRETEXT FOR BRINGING ADDED PRESSURE TO BEAR ON HER. AS A RESULT, BOTH REVOREDO AND MUR SOUGHT AND RECEIVED POLITICAL ASYLUM IN COSTA RICA. REVOREDO THEN PRESENTED A COMPREHENSIVE COMPLAINT AGAINST THE PERUVIAN GOVERNMENT TO THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS. IN SEPTEMBER, REVOREDO RETURNED TO PERU, RISKING REVOCATION OF HER COSTA RICAN ASYLUM, BUT CLAIMING HER PRESENCE WAS NEEDED IN ORDER TO FIGHT FOR DEMOCRACY AND PROMOTE THE RULE OF LAW.

LEGITIMATE FEAR OF PHYSICAL ATTACK BY SENDERO LUMINOSO SERIOUSLY HAMPERED THE ABILITY OF HUMAN RIGHTS MONITORS TO CARRY OUT THEIR WORK IN SOME PARTS OF THE COUNTRY. WHILE THEY HAVE CAREFULLY DOCUMENTED HUMAN RIGHTS ABUSES BY THE SECURITY FORCES, HUMAN RIGHTS GROUPS HAVE, AT THE SAME TIME, REPEATEDLY NAMED SENDERO LUMINOSO AS THE PRINCIPAL VIOLATOR OF THE PEOPLE'S RIGHTS. IN BOTH ITS ANNUAL REPORTS AND PERIODIC PRESS RELEASES, THE COORDINADORA HAS REGULARLY CRITICIZED THE VIOLENCE PERPETRATED BY BOTH SENDERO LUMINOSO AND MRTA.

SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION, 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, DISCRIMINATION AGAINST WOMEN, PEOPLE WITH DISABILITIES, INDIGENOUS PEOPLE, AND RACIAL AND ETHNIC MINORITIES CONTINUED. ALTHOUGH NEITHER THE CONSTITUTION NOR ANY OTHER STATUTE SPECIFICALLY MENTIONS THE RIGHTS OF HOMOSEXUALS, THERE IS A LAW WHICH PROHIBITS DISCRIMINATION AGAINST AIDS SUFFERERS. THE POLICE HAVE OCCASIONALLY USED THE CIVIL CODE'S GENERAL PROHIBITION OF ACTS WHICH OFFEND THE PUBLIC'S "MORALITY AND GOOD CUSTOMS" AS THE BASIS FOR RAIDING GAY BARS AND OTHERWISE HARASSING THEIR PATRONS. IN MARCH, THE COMMISSION ON CONSUMER PROTECTION OF THE NATIONAL INSTITUTE FOR THE DEFENSE OF FREE-MARKET COMPETITION AND THE PROTECTION OF

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INTELLECTUAL PROPERTY BEGAN TO ACCEPT AND INVESTIGATE COMPLAINTS ALLEGING VARIOUS FORMS OF DISCRIMINATION BY RETAIL ESTABLISHMENTS AGAINST PROSPECTIVE CUSTOMERS.

WOMEN

VIOLENCE AGAINST WOMEN, INCLUDING RAPE, SPOUSAL ABUSE, AND THE PHYSICAL AND SEXUAL ABUSE OF WOMEN AND GIRLS, IS A CHRONIC PROBLEM ACCORDING TO LOCAL HUMAN RIGHTS GROUPS AND LAW ENFORCEMENT OFFICES. SUCH ABUSES ARE AGGRAVATED BY INSENSITIVITY ON THE PART OF LAW ENFORCEMENT AND JUDICIAL AUTHORITIES TOWARD FEMALE VICTIMS OF ABUSE AND BY A MEDIA IMAGE OF THE TRADITIONAL RELATIONSHIP BETWEEN THE SEXES THAT ENCOURAGES A CONTROLLING ATTITUDE BY THE HUSBAND TOWARD HIS WIFE. NATIONWIDE STATISTICS ON THE EXTENT OF DOMESTIC VIOLENCE ARE NOT AVAILABLE. HOWEVER, IN LIMA, 6,294 CASES OF DOMESTIC VIOLENCE WERE REPORTED IN 1996. BETWEEN 1990 AND 1996, 32,030 CASES WERE REPORTED. HUMAN RIGHTS ORGANIZATIONS BELIEVE THAT, WHETHER FOR FEAR OF RETALIATION FROM THE ACCUSED SPOUSE, OR BECAUSE OF THE COST INVOLVED IN PURSUING A COMPLAINT, OR FOR SOME OTHER REASON, A LARGE NUMBER OF DOMESTIC VIOLENCE CASES REMAIN UNREPORTED.

ALTHOUGH A BASIC STATUTE CRIMINALIZING SPOUSAL ABUSE HAS EXISTED SINCE DECEMBER 1993, SIGNIFICANT IMPROVEMENTS IN THE LAW WERE ENACTED IN MARCH 1997. THESE CHANGES SIMPLIFIED THE PROCEDURES FOR REPORTING CASES OF DOMESTIC VIOLENCE, MADE THE PROCESS LESS EXPENSIVE, AND BROADENED THE JUDICIAL REMEDIES AVAILABLE. THE 1997 LAW GIVES NOT ONLY JUDGES BUT ALSO PROSECUTORS THE POWER TO PROTECT A VICTIM OF DOMESTIC VIOLENCE FROM FURTHER ABUSE BY ENJOINING THE CONVICTED SPOUSE OR PARENT FROM RETURNING TO THE FAMILY'S HOME. IN THE PAST, WHEN ABUSIVE SPOUSES ARGUED THAT THEIR HOME WAS JOINTLY OWNED BY BOTH HUSBAND AND WIFE AND THAT THEY SHOULD THEREFORE BE ALLOWED TO RETURN TO IT, JUDGES TENDED TO LET THAT ARGUMENT OUTWEIGH THE INTEREST OF THE ABUSED VICTIM.

THE NEW LAW ALSO EXPANDS THE NUMBER OF PERSONS AUTHORIZED TO FILE COMPLAINTS OF DOMESTIC VIOLENCE TO INCLUDE THE VICTIM'S PARENTS OR GRANDPARENTS, OTHER RELATIVES, AND EVEN OTHER UNRELATED PERSONS LIVING IN THE HOME IN WHICH THE VIOLENCE WAS COMMITTED. WHEREAS PREVIOUSLY VICTIMS OF DOMESTIC VIOLENCE HAD TO HAVE A SPECIALIST IN LEGAL MEDICINE CERTIFY THE PRESENCE OF THEIR INJURIES AND TO PAY FOR THE REPORT THEMSELVES, THE NEW LAW ELIMINATES THE REQUIRED FEE AND STIPULATES THAT THE REPORT MAY BE PREPARED BY ANY HEALTH PROFESSIONAL. MANY WOMEN HAVE COMPLAINED THAT THEIR CHARGES OF DOMESTIC VIOLENCE WERE BRUSHED ASIDE WITH INDIFFERENCE BY POLICE OFFICERS WHO EITHER DID NOT UNDERSTAND THE ISSUE OR WRONGLY ASSUMED THAT

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COMPLAINTS OF SPOUSAL ABUSE COULD BE FILED ONLY AT ONE OF THE HANDFUL OF "WOMEN'S POLICE STATIONS" EXCLUSIVELY DEDICATED TO PROCESSING CHARGES OF DOMESTIC VIOLENCE. THE NEW LAW CLEARLY REQUIRES ALL POLICE STATIONS TO RECEIVE SUCH COMPLAINTS. THE MINISTRY OF WOMEN'S AFFAIRS AND HUMAN DEVELOPMENT, IN CONJUNCTION WITH A NONGOVERNMENTAL WOMEN'S RIGHTS ORGANIZATION, HAS PREPARED A NATIONAL PROGRAM TO SENSITIZE POLICE TO THE PROBLEM OF DOMESTIC VIOLENCE AND TO TRAIN OFFICERS AT ALL POLICE STATIONS IN THE PROCESSING OF DOMESTIC VIOLENCE CASES.

IN APRIL 1997, CONGRESS REPEALED A STATUTE WHEREBY CONVICTED RAPISTS COULD BE ABSOLVED OF THEIR CRIME IF THEY MARRIED THEIR VICTIM. IN APRIL 1998, CONGRESS AMENDED THE CHILD AND ADOLESCENT CODE, GUARANTEEING TO PREGNANT SCHOOL-AGE GIRLS THE RIGHT TO BEGIN OR CONTINUE ATTENDING SCHOOL. PREVIOUSLY, MANY SCHOOL PRINCIPALS DID NOT PERMIT GIRLS TO PURSUE THEIR STUDIES AS BEFORE IF THEY BECAME PREGNANT.

ACCORDING TO THE HUMAN RIGHTS OMBUDSMAN, MANY RAPE VICTIMS HAVE COMPLAINED 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 MUST HAVE SOMEHOW ENTICED HER ATTACKER TO COMMIT THE CRIME.

IN OCTOBER 1997, ALLEGATIONS APPEARED THAT A NUMBER OF HEALTH WORKERS IN HOSPITALS AND FAMILY PLANNING CLINICS HAD INDUCED FEMALE PATIENTS TO OPT FOR STERILIZATION BY PROMISING THEM FOOD OR ANOTHER TYPE OF GOOD OR SERVICE OR BY NOT PROVIDING THEM WITH COMPLETE INFORMATION ABOUT THE ALTERNATIVES AVAILABLE. IN JANUARY, THE HUMAN RIGHTS OMBUDSMAN PUBLISHED AN INITIAL REPORT ON THE SUBJECT BASED ON COMPLAINTS BY NINE WOMEN. SINCE ONLY 10,000 MEN HAVE BEEN STERILIZED UNDER THE MINISTRY OF HEALTH'S FAMILY PLANNING PROGRAM, COMPARED WITH 130,000 WOMEN, THE OMBUDSMAN RECOMMENDED THAT THE MINISTRY INTEGRATE MEN FULLY INTO ITS FAMILY PLANNING PROGRAM, THEREBY DISSEMINATING REPRODUCTIVE AND CONTRACEPTIVE INFORMATION MORE EQUITABLY ACROSS GENDER BOUNDARIES. IN ADDITION, THE OMBUDSMAN RECOMMENDED THAT ALL CLIENTS OF THE FAMILY PLANNING PROGRAM BE PROVIDED WITH COMPLETE INFORMATION ABOUT ALL THE ALTERNATIVES AVAILABLE TO THEM, THAT NO CLIENT BE PRESSURED INTO USING ANY PARTICULAR CONTRACEPTIVE METHOD, AND THAT, IF STERILIZATION IS 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 HAS ALREADY IMPLEMENTED MANY OF HIS RECOMMENDATIONS.

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SINCE THE TIME OF THE INITIAL REPORT, THE OMBUDSMAN'S OFFICE HAS RECEIVED ADDITIONAL COMPLAINTS, WHICH NOW TOTAL 109. THESE ARE ALL BEING INVESTIGATED BY SPECIAL STAFF OF THE OMBUDSMAN'S OFFICE.

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 APRIL 1997, CONGRESS PASSED LEGISLATION PROHIBITING THE INCLUSION IN ANY ANNOUNCEMENT ADVERTISING EMPLOYMENT OR OTHER EDUCATIONAL TRAINING OPPORTUNITIES OF ANY REQUIREMENTS THAT MAY BE CONSTRUED AS DISCRIMINATORY ON THE BASIS NOT ONLY OF SEX BUT OF RACE, TOO. IN THE AREA OF PROFESSIONAL EMPLOYMENT, CONGRESS PASSED LEGISLATION IN APRIL 1997 THAT REPEALED THE OLD DISQUALIFICATION OF UNMARRIED OR CHILDLESS INDIVIDUALS FOR JUDGESHIPS IN THE FAMILY COURTS. SINCE THESE POSITIONS HAVE IN THE PAST BEEN PREDOMINANTLY FILLED BY FEMALE CANDIDATES, THE LEGISLATION WAS REGARDED AS BROADENING EMPLOYMENT OPPORTUNITIES FOR SINGLE WOMEN.

THE FIRST 28 WOMEN PERMITTED TO ENROLL AS CADETS IN THE NATIONAL POLICE ACADEMY GRADUATED AS OFFICERS IN 1995; THE SECOND CLASS OF WOMEN GRADUATED IN 1997. THE ARMY ACADEMY ENROLLED ITS FIRST 50 FEMALE CADETS IN 1997; THEY ARE DESTINED TO SERVE IN COMBAT-SUPPORT ASSIGNMENTS ONLY. THE NAVAL AND AIR FORCE ACADEMIES ARE SCHEDULED TO ENROLL THEIR FIRST FEMALE CADETS IN 1998.

NEVERTHELESS, 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 MORE THAN MEN FROM THE COUNTRY'S PERVERSIVE POVERTY AND UNEMPLOYMENT. THE GOVERNMENT-SUPPORTED "MIBANCO" PROGRAM REPRESENTS AN EFFORT TO IMPROVE WOMEN'S ABILITY TO GENERATE INCOME BY PROVIDING CREDIT TO SMALL BUSINESSES STARTED BY ENTERPRISING WOMEN.

CHILDREN

THE GOVERNMENT PROVIDES FREE, COMPULSORY EDUCATION THROUGH SECONDARY SCHOOL. HOWEVER, OF ALL CHILDREN AGES 6 TO 12, 5.7 PERCENT HAVE EITHER NEVER ATTENDED SCHOOL OR HAVE ABANDONED THEIR EDUCATION. AMONG GIRLS, THE RATE OF SCHOOL NON-ATTENDANCE REACHES 12 PERCENT. AS FOR EDUCATIONAL ACHIEVEMENT, BOTH PRIMARY AND SECONDARY SCHOOL CHILDREN ARE, ON THE AVERAGE, TWO YEARS BEHIND THEIR CHRONOLOGICAL AGE,

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WHILE CHILDREN WHO WORK AS WELL AS STUDY ARE FOUR YEARS BEHIND.

FOLLOWING THE WORLD SUMMIT ON CHILDREN, THE GOVERNMENT APPROVED, IN 1997, A NATIONAL PLAN FOR THE PROTECTION AND DEVELOPMENT OF CHILDREN, COVERING THE YEARS 1996-2000. THE PLAN, WHICH INCLUDES BROAD STRATEGIES FOR SUCH SECTORS AS HEALTH AND EDUCATION, PLACES PARTICULAR EMPHASIS ON THE CARE AND ADVANCEMENT OF GIRLS, AND ASSIGNS TO LOCAL COMMUNITY ORGANIZATIONS SPECIAL RESPONSIBILITY FOR FINDING WAYS TO ALLEVIATE POVERTY.

THE MINISTRY OF WOMEN'S AFFAIRS 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 LIMA-BASED AND PROVINCE-BASED GROUPS CONCERNED WITH THE PROBLEMS OF CHILDREN. 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. SOME 55 PERCENT OF THESE OFFICES ARE OPERATED BY PROVINCIAL OR DISTRICT GOVERNMENTS, WHILE THE REMAINING 45 PERCENT ARE OPERATED BY SCHOOLS, CHURCHES, AND A VARIETY OF OTHER COMMUNITY-BASED NGO'S. MOST OF THE UNITS ARE STAFFED BY LAW STUDENTS; ONLY THE OFFICES IN THE WEALTHIEST DISTRICTS OF THE COUNTRY HAVE PROFESSIONALLY TRAINED LAWYERS, PSYCHOLOGISTS AND SOCIAL WORKERS. CASES THAT CANNOT BE RESOLVED BY THESE OFFICES ARE TYPICALLY REFERRED TO THE LOCAL PROSECUTORS' OFFICES OF THE PUBLIC MINISTRY. NATIONWIDE, THESE OFFICES RECEIVED AND RESOLVED 20,000 CASES IN 1996.

VIOLENCE AGAINST CHILDREN AND THE SEXUAL ABUSE OF CHILDREN ARE SERIOUS PROBLEMS. IT IS ESTIMATED THAT ONLY 10 TO 20 PERCENT OF INCIDENTS OF SUCH MISTREATMENT AND ABUSE ARE REPORTED, SINCE MANY PEOPLE BELIEVE THAT PROBLEMS OF THIS KIND BELONG WITHIN THE FAMILY AND SHOULD BE RESOLVED PRIVATELY. EVEN SO, IN LIMA ALONE, 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.

IN 1996, THE INFANT MORTALITY RATE WAS 43 PER 1000, DOWN FROM 70 PER 1,000 IN 1992. HOWEVER, THIS FIGURE MASKS WIDE REGIONAL DISPARITIES: 23 PER 1,000 IN LIMA AND ITS ENVIRONS, COMPARED WITH 109 PER 1,000 IN HUANCAYELICA. TWENTY-SEVEN PERCENT OF CHILDREN UNDER AGE 5, AND 48 PERCENT OF CHILDREN AGES 6 TO 9,

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SUFFERED FROM CHRONIC MALNUTRIION. THE HIGHER STATISTIC FOR THE OLDER CHILDRE IS DUE TO THE FACT THAT THOSE CHILDREN WERE BORN IN THE LATE 1980'S, DURING A TIME OF EXTREME ECOOMIC HARDSHIP.

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.).

PEOPLE 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." HOWEVER, THE GOVERNMENT DEVOTES FEW RESOURCES TO ASSISTING THE DISABLED AND MAKES IT DIFFICULT FOR THEM TO IMPORT DISABILITY-RELATED EQUIPMENT AND SUPPLIES FROM ABROAD. AS A RESULT, THE DISABLED AND THE PRIVATE AGENCIES SERVING THEM MUST GENERALLY RELY ON THE PUBLIC'S CHARITY AND ON FUNDING FROM INTERNATIONAL ORGANIZATIONS. THE GOVERNMENT ALSO MAKES LITTLE EFFORT TO ENSURE FULL AND EQUAL PARTICIPATION BY THE DISABLED IN THE POLITICAL, ECONOMIC, AND SOCIAL LIFE OF THE COUNTRY. THE DECISION NOT TO GIVE THE 1996 PARALYMPICS SWIMMING GOLD MEDALIST EQUAL RECOGNITION TO THAT ACCORDED TO ALL THE COUNTRY'S NON-DISABLED SPORTS HEROES REFLECTED A WIDESPREAD VIEW OF THE DISABLED AS SEPARATE AND INFERIOR.

THE 1993 CENSUS COUNTED 288,526 DISABLED PERSONS, OR 1.3 PERCENT OF THE POPULATION. HOWEVER, THE MINISTRY OF HEALTH AND THE PAN AMERICAN HEALTH ORGANIZATION BELIEVE THAT THE VAST MAJORITY OF DISABLED PERSONS EITHER DO NOT WISH TO ACKNOWLEDGE THEIR DISABILITY TO CENSUS TAKERS OR DO NOT KNOW WHAT CONSTITUTES A DISABILITY, AND THAT THE ACTUAL NUMBER OF DISABLED PEOPLE WITHIN THE POPULATION IS APPROXIMATELY THREE MILLION, OR 13.8 PERCENT. ACCORDINGLY, THE GOVERNMENT, IN CONJUNCTION WITH THE COUNTRY'S HOSPITALS, PLANS TO IMPLEMENT A NATIONAL REGISTER OF DISABLED PERSONS. 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 IN THE MYTH THAT A SEVERE DISABILITY NECESSARILY INCREASES A PERSON'S VULNERABILITY TO ACCIDENTS AND ILLNESSES. ALTHOUGH CONSTRUCTION REGULATIONS HAVE LONG MANDATED BARRIER-FREE ACCESS BY PEOPLE WITH PHYSICAL DISABILITIES TO BUILDINGS IN WHICH SERVICES TO THE PUBLIC ARE LOCATED, NO EFFORT HAS BEEN MADE TO

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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 PERUVIAN INSTITUTE FOR SOCIAL SECURITY, FEWER THAN ONE PERCENT OF THE COUNTRY'S THREE MILLION SEVERELY DISABLED CITIZENS ACTUALLY WORK. AMONG THOSE WHO DO, MANY HAVE BEEN CHANNELLED INTO A RESTRICTED NUMBER OF OCCUPATIONS TRADITIONALLY ASSUMED TO BE "SUITABLE" FOR THE DISABLED, SUCH AS TELEPHONE SWITCHBOARD OPERATION AND MASSAGE, IN THE CASE OF THE BLIND. HOWEVER, SOME PROGRESSIVE PROGRAMS DO EXIST: TWO LEADING SUPERMARKET CHAINS HAVE INITIATED THE EMPLOYMENT OF MENTALLY RETARDED ADOLESCENTS AND YOUNG ADULTS; LIMA'S CENTER FOR REHABILITATION OF THE BLIND AND THE ST. FRANCIS SCHOOL FOR THE BLIND HAVE PIONEERED THE TRAINING OF THE BLIND IN COMPUTER-RELATED SKILLS; AND THE FOUNDATION FOR SUPPORTIVE DEVELOPMENT PROVIDES LOW-INTEREST LOANS AVERAGING 500 DOLLARS EACH TO DISABLED PERSONS WHO WISH TO START THEIR OWN BUSINESSES. NEVERTHELESS, IN GENERAL, EVEN WELL-QUALIFIED DISABLED PERSONS FACE SERIOUS 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 WHICH THE NATIONAL JUDICIARY COUNCIL HAS GENERALIZED TO ALL PERSONS WITH DISABILITIES. IN ADDITION, SEDAPAL, LIMA'S WATER UTILITY, DISMISSED ALL ITS BLIND SWITCHBOARD OPERATORS, OSTENSIBLY AS PART OF A NON-DISCRIMINATORY, ACROSS-THE-BOARD BUDGET-CUTTING MEASURE. HOWEVER, THE CHIEF ADVOCATE FOR THE DISABLED IN CONGRESS REPORTS THAT ALL THE BLIND OPERATORS WERE IMMEDIATELY REPLACED BY YOUNGER SIGHTED RECRUITS. PEOPLE WITH DISABILITIES HAVE ONLY RECENTLY BEGUN TO ORGANIZE AND DEMAND EQUAL RIGHTS AND OPPORTUNITIES AS A MINORITY.

INDIGENOUS PEOPLE

THE 1993 CONSTITUTION PROHIBITS DISCRIMINATION BASED ON RACE AND PROVIDES FOR THE RIGHT OF ALL CITIZENS TO SPEAK THEIR NATIVE LANGUAGE. NEVERTHELESS, THE LARGE INDIGENOUS POPULATION FACES PERVASIVE DISCRIMINATION AND SOCIAL PREJUDICE. ACCORDING TO INDIGENOUS RIGHTS GROUPS, THE PROVISIONS IN THE CONSTITUTION AND IN SUBSEQUENT IMPLEMENTING LEGISLATION REGARDING THE TREATMENT OF NATIVE LANDS ARE LESS EXPLICIT ABOUT THEIR INALIENABILITY AND UNMARKETABILITY THAN WERE

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EARLIER CONSTITUTIONAL AND STATUTORY PROTECTIONS. IN ADDITION, MANY OTHER FACTORS HAVE CONTRIBUTED 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 THE INDIGENOUS POPULATION AND THE CENTRALIZATION OF GOVERNMENT ACTION IN LIMA FURTHER MARGINALIZE INDIGENOUS PEOPLE. ALL THESE 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 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.

AMERINDIANS, WHO LIVE IN THE ANDEAN HIGHLANDS, SPEAK AYMARA AND QUECHUA, WHICH ARE RECOGNIZED AS OFFICIAL LANGUAGES, AND ARE 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. RECENT REGULATIONS REQUIRING ALL SCHOOL TEACHERS TO HAVE A PROFESSIONAL TEACHING CERTIFICATION CAUSED MANY INDIGENOUS TEACHERS TO LOSE THEIR JOBS AND BE REPLACED BY TEACHERS WHO ARE PROFESSIONALLY CERTIFIED BUT WHO DO NOT SPEAK ANY OF THE INDIGENOUS LANGUAGES. AS A RESULT, THE CONTINUED USE OF AYMARA AND QUECHUA AS LANGUAGES OF INSTRUCTION, AS WELL AS THE VERY SURVIVAL OF INDIGENOUS CULTURES, HAS BEEN PUT IN JEOPARDY.

IN MANY JUNGLE AREAS, 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 CONTINUE TO ENCROACH UPON NATIVE LANDS. THE 45,000 AGUARUNA-HUAMBISA PEOPLE, WHO INHABIT THE FRONTIER AREA WHERE THE 1995 PERU-ECUADOR BORDER CONFLICT TOOK PLACE, ARE JUST ONE OF MANY INDIGENOUS GROUPS THAT COMPLAIN ABOUT INTOLERABLE LIVING CONDITIONS AND INACCESSIBLE PUBLIC SERVICES. IN THE SAME REGION, ALONG THE PASTAZA RIVER, THE 50,000 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 INFUX OF COLONISTS. TYPICALLY, THE COMMERCIAL EXPLOITATION OF THE LAND

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CAUSES ENVIRONMENTAL DAMAGE AND NEGATIVELY AFFECTS THE HEALTH OF INDIGENOUS PEOPLE.

THE TWO MAIN ORGANIZATIONS REPRESENTING THE INTERESTS OF 200,000 INDIGENOUS PEOPLE OF THE PERUVIAN AMAZON ARE THE INTER-ETHNIC ASSOCIATION FOR THE DEVELOPMENT OF THE PERUVIAN JUNGLE (AIDSESEP) AND THE CONFEDERATION OF AMAZONIAN NATIONALITIES OF PERU (CONAP). IN ACCORDANCE WITH LOCAL CULTURE AND TRADITION, MOST INDIGENOUS PEOPLE HAVE A SPIRITUAL RELATIONSHIP WITH THEIR LAND, AND THE CONCEPT OF LAND AS A MARKETABLE COMMODITY IS ALIEN TO THEM. BOTH AIDSESEP AND 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 INDIGENOUS COMMUNITIES TO SHARE APPROPRIATELY THE BENEFITS OF THAT DEVELOPMENT. AIDSESEP, ON THE OTHER HAND, REMAINS OPPOSED TO TERRITORIAL ENCROACHMENTS BY GOVERNMENT, COMMERCIAL, AND OTHER INTERESTS.

ALL INDIGENOUS RIGHTS ADVOCATES PROTEST THE LOW PRIORITY ASSIGNED BY THE GOVERNMENT TO THE SOCIO-ECONOMIC CONDITION OF INDIGENOUS PEOPLE AND THE LACK OF CONSULTATION REGARDING MATTERS AFFECTING THEIR WELFARE. ACCORDING TO ONE INDIGENOUS RIGHTS GROUP, THIS OFFICIAL NEGLECT IS REFLECTED IN A GOVERNMENT DECISION TO WIND DOWN THE OPERATION OF THE NATIONAL INDIGENOUS INSTITUTE AND TRANSFER ITS FUNCTIONS TO A SMALL BUREAU WITHIN THE MINISTRY OF WOMEN'S AFFAIRS AND HUMAN DEVELOPMENT.

SENDERO LUMINOSO CONTINUED TO BE A LEADING VIOLATOR OF INDIGENOUS RIGHTS. AS A RESULT OF TERRORIST HARASSMENT AND ABUSE, THOUSANDS OF ASHANINKAS IN THE CENTRAL JUNGLE AREA REMAIN DISPLACED. IN ADDITION, THERE WERE CONTINUED REPORTS OF ENFORCED RECRUITMENT OF ASHANINKAS BY SENDERO LUMINOSO.

NATIONAL/RACIAL/ETHNIC MINORITIES

PERU'S POPULATION INCLUDES SEVERAL RACIAL MINORITIES, THE LARGEST OF WHICH ARE PERSONS OF ASIAN AND AFRICAN DESCENT. BLACKS, WHO TEND TO BE CONCENTRATED ALONG THE COAST, FACE DISCRIMINATION AND SOCIAL PREJUDICE, AND ARE AMONG THE POOREST GROUPS IN THE COUNTRY.

BLACKS 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. EMPLOYMENT ADVERTISEMENTS IN NEWSPAPERS, WHICH ARE PROHIBITED BY LAW FROM

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SPECIFYING THE COLOR OF THE CANDIDATES SOUGHT, BUT WHICH OFTEN FIND DISCREET WAYS TO DO SO, TYPICALLY SEGMENT THE LABOR MARKET INTO MANAGERIAL AND PROFESSIONAL POSITIONS, WHICH ARE RESERVED FOR WHITE JOB SEEKERS, AND LOW-PAYING SERVICE JOBS, WHICH ARE SET ASIDE FOR BLACK APPLICANTS. ACCORDING TO TWO BLACK HUMAN RIGHTS ORGANIZATIONS, POLICE ROUTINELY DETAIN PERSONS OF AFRICAN DESCENT ON SUSPICION OF HAVING COMMITTED CRIMES, FOR NO OTHER REASON THAN THE COLOR OF THEIR SKIN, AND RARELY ACT ON COMPLAINTS OF CRIMES AGAINST BLACKS. BLACKS ARE UNFLATTERINGLY PORTRAYED IN TELEVISION COMEDIES AS INDIVIDUALS OF QUESTIONABLE CHARACTER.

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 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

IT IS ESTIMATED THAT ONLY 5 PERCENT OF THE TOTAL WORK FORCE OF 8.5 MILLION BELONG TO ORGANIZED LABOR UNIONS. MORE THAN HALF OF ALL WORKERS ARE 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 PROFITMAKING 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

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FREEDOM TO BARGAIN COLLECTIVELY AND THE RIGHT TO WORK. UNIONS ALSO COMPLAINED THAT THE NEW LEGISLATION ELIMINATED THE RIGHT OF DISMISSED WORKERS TO COMPULSORY REINSTATEMENT, IF IT WAS PROVEN THAT THEY HAD BEEN UNJUSTLY DISMISSED. AS IN THE CASE OF LEGALLY DISMISSED EMPLOYEES, SUCH WORKERS HAVE THE RIGHT TO NORMAL COMPENSATION OF 1 MONTH'S PAY FOR EACH YEAR OF SERVICE. IN ADDITION, THEY HAVE THE RIGHT TO BE COMPENSATED FOR UP TO 8 YEARS OF SERVICE, AT A RATE OF 1-1/2 MONTH'S PAY FOR EACH YEAR WORKED, OR A MAXIMUM SUPPLEMENTARY AWARD EQUIVALENT TO 12 MONTHS' PAY. IN PRACTICE, THE LEGISLATION HAS HAD A NEGATIVE IMPACT ON THE RIGHT OF ASSOCIATION BY MAKING IT EASIER FOR COMPANIES TO FIRE WORKERS INVOLVED IN UNION ACTIVITIES.

IN JUNE 1996, THE INTERNATIONAL LABOR ORGANIZATION (ILO) CALLED ON THE GOVERNMENT TO ADOPT NEW LEGISLATION TO ENHANCE FREEDOM OF ASSOCIATION, INCLUDING A REQUIREMENT THAT REDUCTIONS OF PERSONNEL ALLEGEDLY FOR ECONOMIC REASONS NOT BE USED AS A DEVICE FOR NEUTRALIZING UNIONIZATION CAMPAIGNS, AND THE PROVISION OF THE RIGHT TO JOIN A UNION TO NEW WORKERS ON PROBATION.

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.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

THE 1993 CONSTITUTION RECOGNIZES THE RIGHT OF PUBLIC AND PRIVATE SECTOR WORKERS TO ORGANIZE AND BARGAIN COLLECTIVELY. HOWEVER, IT STATES THAT THIS RIGHT MUST BE EXERCISED IN HARMONY WITH BROADER SOCIAL OBJECTIVES. LABOR REGULATIONS PROMULGATED PRIOR TO THE CONSTITUTION PROVIDE THAT WORKERS MAY FORM UNIONS ON THE BASIS OF THEIR OCCUPATION, EMPLOYER AFFILIATION, OR GEOGRAPHIC TERRITORY. HOWEVER, THE REGULATIONS PROHIBIT TEMPORARY, PROBATIONARY, APPRENTICE, AND MANAGEMENT EMPLOYEES FROM UNION MEMBERSHIP. IN ADDITION, THE REGULATIONS REQUIRE A MINIMUM OF 100 MEMBERS FOR THE FORMATION OF PROFESSIONALLY OR OCCUPATIONALLY BASED UNIONS, AND A MINIMUM OF 20 WORKERS FOR THE FORMATION OF A COMPANY-BASED UNION. IN APRIL 1997, THE MANAGEMENT OF PETROPERU'S PIURA PLANT CLAIMED THAT A GROUP OF WORKERS SEEKING TO FORM A UNION AT THE PLANT DID NOT HAVE THE REQUISITE NUMBER OF PROSPECTIVE MEMBERS TO BE RECOGNIZED. HOWEVER, WHEN THE WORKERS PETITIONED THE MINISTRY OF LABOR TO VERIFY THE NUMBERS, THE

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MINISTRY FOUND IN FAVOR OF THE WORKERS AND A UNION WAS CERTIFIED.

ACCORDING TO THE REGULATIONS, UNION OFFICIALS MUST BE ACTIVE MEMBERS OF THEIR UNION, ALTHOUGH THEY SET LIMITS ON THE NUMBER OF INDIVIDUALS EACH UNION MAY DESIGNATE AS "OFFICIAL" AND ON 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. LABOR REGULATIONS STIPULATE THAT 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.

FOR A STRIKE TO TAKE PLACE, A MAJORITY OF ALL WORKERS IN A COMPANY, WHETHER UNION MEMBERS OR NOT, MUST APPROVE IT BY A SECRET BALLOT. A SECOND VOTE MUST BE TAKEN, IF PETITIONED BY AT LEAST 20 PERCENT OF THE WORKERS. HOWEVER, LABOR RIGHTS ADVOCATES COMPLAIN THAT MANY TEMPORARY WORKERS ARE UNDERSTANDABLY RELUCTANT TO PARTICIPATE EVEN IN SECRET BALLOTS, FOR FEAR OF RETALIATION BY THEIR EMPLOYERS. THE LABOR MOVEMENT HAS CRITICIZED 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 WORKERS HIGHER LEVELS OF PROTECTION THAN THE BASELINE STANDARDS PROVIDED FOR BY LAW.

IN RESPONSE TO A COMPLAINT REGARDING THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY, AN ILO COMMITTEE HAS NOTED THAT THE NEW LEGISLATION FAILS TO PROTECT WORKERS AND THEIR ORGANIZATIONS AGAINST ACTS OF ANTIUNION DISCRIMINATION AND INTERFERENCE BY EMPLOYERS. IN ADDITION, THE COMMITTEE FOUND THAT THE GOAL OF VOLUNTARY COLLECTIVE BARGAINING NEGOTIATION IS IMPEDED BY THE REQUIREMENT THAT, FOR AN AGREEMENT TO BE CONCLUDED COVERING A PARTICULAR OCCUPATION OR PROFESSION, IT MUST BE APPROVED NOT ONLY BY AN OVERALL MAJORITY OF THE WORKERS, BUT ALSO BY THE WORKERS IN A MAJORITY OF THE ENTERPRISES AFFECTED.

LABOR REGULATIONS ALSO PERMIT COMPANIES UNILATERALLY TO PROPOSE TEMPORARY CHANGES IN WORK SCHEDULES, CONDITIONS, AND WAGES, AND TO SUSPEND COLLECTIVE

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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 OF THEIR EMPLOYEES.

ALTHOUGH A CONCILIATION AND ARBITRATION SYSTEM EXISTS TO RESOLVE MANAGEMENT DISPUTES WITH UNIONS, UNION OFFICIALS COMPLAIN THAT THEIR PROPORTIONATE SHARE OF THE COSTS OF ARBITRATION OFTEN EXCEEDS THEIR RESOURCES. IN ADDITION, UNION OFFICIALS CLAIM THAT, SINCE THE LAW PROHIBITS TEMPORARY 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 A POSSIBLE INCREASE 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. IN RESPONSE TO THE LABOR MOVEMENT'S PERSISTENT LOBBYING ON THIS ISSUE IN INTERNATIONAL FORUMS, EMPLOYERS DENIED THE CHARGE THAT THEY ARE BIASED AGAINST UNIONS, ARGUING THAT THE LABOR-STABILITY PROVISIONS OF THE LEGISLATION 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. ALTHOUGH, AS A RESULT, WORKERS IN SUCH ZONES HAVE DIFFICULTY IN UNIONIZING, LABOR RIGHTS ADVOCATES ADMIT THAT 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. HOWEVER, THERE ARE PERIODIC REPORTS OF THIS PRACTICE IN REMOTE ANDEAN MOUNTAIN AND AMAZONIAN JUNGLE REGIONS. IN RESPONSE TO A COMPLAINT FILED WITH THE ILO, THE GOVERNMENT ACKNOWLEDGED IN 1994 THAT FORCED LABOR EXISTS BUT STATED THAT IT HAD

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ADOPTED MEASURES TO END THE ABUSES. ALTHOUGH THE CONSTITUTION DOES NOT SPECIFICALLY PROHIBIT FORCED OR BONDED LABOR BY CHILDREN, PERU HAS RATIFIED ILO CONVENTION 105 ON THE ABOLITION OF FORCED LABOR, INCLUDING FORCED OR BONDED CHILD LABOR. NEVERTHELESS, THERE WERE REPORTS OF FORCED OR BONDED CHILD LABOR IN THE INFORMAL GOLD MINING OPERATIONS OF MADRE DE DIOS DEPARTMENT. THE GOVERNMENT HAS NOT ADEQUATELY POLICED THIS PRACTICE, PARTLY BECAUSE OF INADEQUATE FUNDING FOR WHAT IS REGARDED AS A LOW PRIORITY, AND PARTLY BECAUSE OF THE GEOGRAPHICAL REMOTENESS OF THE INFORMAL GOLD MINING REGION (SEE SECTION 6.D.). THERE IS NO FORCED LABOR IN URBAN AREAS.

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

THE CONSTITUTION PROVIDES FOR COMPULSORY, FREE EDUCATION THROUGH SECONDARY SCHOOL. NEVERTHELESS, LARGELY BECAUSE OF WIDESPREAD POVERTY, APPROXIMATELY A 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 EVEN IN THE SEX TRADE. IN RECENT YEARS, GOVERNMENT SURVEYS HAVE VARIOUSLY ESTIMATED THE NUMBER OF CHILD AND ADOLESCENT WORKERS TO BE ANYWHERE FROM 500,000 TO 1.9 MILLION. THE WIDE DISPARITY IS PARTLY DUE TO UNTRUTHFUL REPORTING BY PARENTS WHO MAY NOT WISH TO ADMIT THAT THEIR CHILDREN WORK. IN ADDITION, CHILD AND ADOLESCENT LABOR TENDS TO BE SEASONAL, WITH THE HIGHEST SURVEY STATISTICS BEING REPORTED DURING SCHOOL VACATION PERIODS. THE LAW DEFINES CHILDREN AS THOSE UNDER AGE 12, AND ADOLESCENTS AS THOSE BETWEEN AGES 12 AND 17 (SEE ALSO SECTION 5).

THE CHILD AND ADOLESCENT CODE OF 1992 IS THE STATUTE WHICH GOVERNS CHILD AND ADOLESCENT LABOR PRACTICES. THE LEGAL MINIMUM AGE FOR EMPLOYMENT IS 12. HOWEVER, IN CERTAIN SECTORS OF THE ECONOMY, 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 WHICH JEOPARDIZES THE HEALTH OF CHILDREN AND ADOLESCENTS, PUTS AT RISK THEIR PHYSICAL, MENTAL AND EMOTIONAL

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DEVELOPMENT, AND PREVENTS THEIR REGULAR ATTENDANCE AT SCHOOL. ADOLESCENT WORKERS MUST BE AUTHORIZED TO WORK AND MUST BE REGISTERED UNLESS THEY ARE EMPLOYED AS DOMESTIC WORKERS OR AS UNPAID FAMILY WORKERS. ADOLESCENTS MAY ONLY WORK A CERTAIN NUMBER OF HOURS EACH DAY: 4 HOURS FOR AGES 12 THROUGH 14, AND 6 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 ROUTINELY AND Pervasively VIOLATED. 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 MONTHS, THE NUMBER OF CHILDREN AND ADOLESCENTS WORKING IN EXTREMELY HARSH CONDITIONS IN THE INFORMAL GOLD MINING OPERATIONS OF MADRE DE DIOS DEPARTMENT HAS DECLINED, PRIMARILY BECAUSE THE USE OF MODERN MINING TECHNOLOGY HAS ELIMINATED THE NEED FOR THEM. HOWEVER, THOSE YOUNG LABORERS WHO STILL PERFORM THIS WORK ARE TYPICALLY PRESSED INTO SERVICE THROUGH A RECRUITMENT SYSTEM KNOWN AS "ENGANCHE," WHICH IS PRACTICED IN PUNO, JULIACA, SICUANI, AND CUZCO. UNDER THIS SYSTEM, THEY ARE PROVIDED FREE TRANSPORTATION TO THE MINES, AND ALLEGEDLY AGREE TO WORK FOR AT LEAST 90 DAYS BEFORE BEING PAID. IN ADDITION, THESE WORKERS LACK PROPER MEDICAL CARE, ARE FORCED TO WORK LONG HOURS, ARE OFTEN SUBJECTED TO BEATINGS AND RAPE, AND AT TIMES ARE DEPRIVED OF THEIR PAY ALTOGETHER. THE GOVERNMENT HAS NOT EXERCISED DUE SUPERVISION OVER THIS CHILD LABOR SYSTEM, AND THE MINE OWNERS HAVE FAILED TO COMPLY WITH THE LEGAL PROVISIONS THAT DO EXIST WITH RESPECT TO JUVENILE WORKERS.

A NUMBER OF INTERNATIONAL ORGANIZATIONS, GOVERNMENT AGENCIES, AND NGO'S SPONSOR PROGRAMS DESIGNED PRIMARILY TO ENSURE THAT CHILD AND ADOLESCENT WORKERS CONTINUE TO PURSUE THEIR EDUCATION, RECEIVE ADEQUATE NUTRITION, AND ARE NOT DENIED THE NORMAL OPPORTUNITIES OF CHILDHOOD AND ADOLESCENT LIFE. THESE INCLUDE, AMONG OTHERS, THE ILO'S INTERNATIONAL PROGRAM FOR THE ELIMINATION OF CHILD LABOR AND THE STREET EDUCATOR PROGRAM OF THE GOVERNMENT'S NATIONAL INSTITUTE FOR FAMILY WELFARE.

E. ACCEPTABLE CONDITIONS OF WORK

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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." HOWEVER, LABOR RIGHTS ADVOCATES COMPLAIN THAT, WHILE LABOR LEADERS HAVE ENGAGED IN DISCUSSIONS WITH MEMBERS OF THE CONGRESS LABOR COMMITTEE, THEY HAVE BEEN REFUSED ACCESS TO SENIOR EXECUTIVE BRANCH OFFICIALS FOR THE PAST 4 YEARS.

ON JULY 28, 1997, THE GOVERNMENT RAISED THE STATUTORY MINIMUM WAGE TO \$130 (345 SOLES) A MONTH. IT IS GENERALLY CONSIDERED TO BE INADEQUATE TO SUPPORT A WORKER AND FAMILY. ACCORDING TO SOME ESTIMATES, AS MUCH AS HALF THE COUNTRY'S WORK FORCE EARNS THE MINIMUM WAGE OR BELOW.

THE CONSTITUTION ALSO PROVIDES FOR A 48-HOUR WORK WEEK, A WEEKLY DAY OF REST, AND AN ANNUAL VACATION. IN ADDITION, IT PROHIBITS DISCRIMINATION IN THE WORK PLACE. 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 IS USUALLY 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.
JETT

ADMIN
END OF MESSAGE

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