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USCINCSO ALSO FOR POLAD

E.O. 12356: DECL: OADR
 TAGS: PHUM, KJUS, PGOV, PE
 SUBJECT: MILITARY COURT CONVICTS NINE FOR LA
 CANTUTA
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REF: LIMA 1493 (NOTAL)

1. (C) SUMMARY: THE COURT-MARTIAL OF ELEVEN ARMY PERSONNEL FOR THE LA CANTUTA DISAPPEARANCES BEGAN FEBRUARY 18, AND SENTENCES WERE ANNOUNCED FEBRUARY 21. RELATIVES OF THE LA CANTUTA VICTIMS DECIDED NOT TO BE CIVIL PARTIES IN THE TRIAL, WHICH THEY DESCRIBED AS "A CIRCUS AND A HOAX." THE RESULT WAS BITTERSWEET FOR THOSE INVOLVED. THE CONVICTIONS AND LONG SENTENCES (TO BE APPEALED) ARE A DISSUASIVE MESSAGE, BUT HUMAN RIGHTS GROUPS ARE UPSET THAT THE RESULT CAME FROM A COURT THAT LACKS DUE PROCESS AND A TRIAL THAT SERVED TO SHIELD HIGHER-UPS. FOR GENERAL HERMOZA AND THE GOP, THE RESULT WILL NOT END PRESS FOCUS

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ON LA CANTUTA AND OTHER SERIOUS HUMAN RIGHTS CASES; HERMOZA WILL BE CRITICIZED BY SOME FOR USING SCAPEGOATS. END SUMMARY.

NINE OF ELEVEN CONVICTED

2. (U) FOLLOWING A THREE-DAY COURT-MARTIAL CARRIED OUT IN SECRET, THE SUPREME COUNCIL OF MILITARY JUSTICE PERMITTED JOURNALISTS TO BE PRESENT DURING THE READING OF VERDICTS AGAINST ELEVEN ARMY PERSONNEL ACCUSED OF THE JULY 1992 LA CANTUTA DISAPPEARANCES. ONE OF THE ELEVEN WHO HAD BEEN CHARGED -- LIEUTENANT AQUILINO PORTELLA, WHO WAS IN CHARGE OF THE ARMY DETAIL DEPLOYED AT [REDACTED]

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 THE UNIVERSITY AT THE TIME OF THE DISAPPEARANCES -- WAS DECLARED A FUGITIVE, REPORTEDLY LIVING IN PARAGUAY; JUDGMENT AGAINST HIM WAS WITHHELD UNTIL HE RETURNS TO PERU. ANOTHER OF THE ELEVEN, COL. MANUEL GUZMAN, WAS ACQUITTED. THE OTHERS WERE GIVEN THE FOLLOWING SENTENCES:

-- GENERAL JUAN RIVERO LAZO, CONVICTED OF NEGLIGENCE: FIVE YEARS IN PRISON AND A FINE OF 50,000 SOLES (USD 23,000) PAYABLE TO THE ARMY.

-- COLONEL FEDERICO NAVARRO, CONVICTED OF NEGLIGENCE: FOUR YEARS IN PRISON AND A FINE OF 50,000 SOLES (USD 23,000) PAYABLE TO THE ARMY.

-- MAJOR SANTIAGO MARTIN RIVAS, CONVICTED OF ABUSE OF AUTHORITY, KIDNAPPING, FORCED DISAPPEARANCE, AND MURDER: 20 YEARS IN PRISON AND A FINE OF 2,050,000 SOLES (USD 940,000) PAYABLE TO THE FAMILIES OF THE DISAPPEARED.

-- MAJOR CARLOS ELISEO PICHILIGUE: CONVICTED OF THE SAME CRIMES AND GIVEN THE SAME SENTENCE AS MARTIN RIVAS.

-- ENLISTED MEN JULIO SOSA SAAVEDRA, JULIO CHUQUI, NELSON CARBAJAL AND PEDRO SUPO SANCHEZ, CONVICTED OF KIDNAPPING, FORCED DISAPPEARANCE AND MURDER: 15 YEARS IN PRISON AND A FINE OF 2,050,000 SOLES (USD 940,000) PAYABLE TO THE FAMILY MEMBERS (IT IS UNCLEAR IF THE FINE WAS

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 APPLIED INDIVIDUALLY OR AS A GROUP).

3. (U) THE COURT ANNOUNCED THAT ALL THE ACCUSED WILL SERVE THEIR SENTENCES AT THE BOLIVAR ARMY BASE IN LIMA. THE DEFENDANTS IMMEDIATELY APPEALED THE VERDICTS, AND THE PROSECUTORS APPEALED FOR TOUGHER SENTENCES.

4. (U) THE COURT-MARTIAL BEGAN FEBRUARY 18 IN THE BOLIVAR ARMY BASE. AS NOTED REFTEL, ONLY 11 OF THE THIRTEEN INDIVIDUALS INDICTED BY THE MILITARY COURTS IN DECEMBER 1993 WERE ACCUSED. IN FILING THE CHARGES, THE MILITARY PROSECUTOR STATED THAT TWO OF THE ORIGINAL INDICTEES --

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 EDUARDO SOSA DAVILA AND HUGO CORAL SANCHEZ --
 WERE "UNKNOWN AND DO NOT BELONG TO THE PERUVIAN
 ARMY," THUS THEY WERE NOT ACCUSED.

RELATIVES BOYCOTT THE TRIAL

5. (U) THE FAMILY MEMBERS OF THE LA CANTUTA VICTIMS ANNOUNCED FEBRUARY 15 THAT THEY WOULD NOT PARTICIPATE AS "CIVIL PARTIES" IN THE TRIAL (DOING THIS WOULD NOT PERMIT THEM TO BE PRESENT DURING THE PROCESS, BUT WOULD ALLOW THEIR LAWYERS TO ADDRESS THE COURT). THE RELATIVES TOLD THE MEDIA THAT LENDING THEIR NAMES TO THE TRIAL WOULD BE "LEGITIMIZING THE CIRCUS AND HOAX BEING PERPETRATED BY THE SUPREME COUNCIL OF MILITARY JUSTICE." THE FAMILIES PARTICIPATED IN A DEMONSTRATION IN FRONT OF THE PALACE OF JUSTICE FEBRUARY 18 TO PROTEST THE GOVERNMENT'S DECISION TO LET THE CASE BE TRIED IN MILITARY COURT. THEY ASSERTED THAT THEY WOULD FILE SUIT AGAINST THE GOP IN THE INTER-AMERICAN HUMAN RIGHTS COURT.

FUJIMORI KEEPS TRIAL CLOSED; ARCHBISHOP SPEAKS

6. (U) RESPONDING TO JOURNALISTS' QUESTIONS BEFORE THE TRIAL BEGAN, PRESIDENT FUJIMORI DECLARED FEBRUARY 15 THAT DID NOT EXIST ANY POSSIBILITY OF OPENING THE COURT-MARTIAL TO THE PUBLIC. THE RELATIVES OF THE LA CANTUTA VICTIMS
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 CLAIMED THAT KEEPING THE TRIAL SECRET WAS THE GOVERNMENT'S WAY OF ENSURING IMPUNITY FOR THOSE WHO GAVE THE ORDERS TO ABDUCT AND KILL THE PROFESSOR AND NINE STUDENTS. FOLLOWING ASH WEDNESDAY MASS FEBRUARY 16, LIMA ARCHBISHOP AUGUSTO VARGAS ALZAMORA CALLED FOR A TRANSPARENT TRIAL. "THE COUNTRY NEEDS CLARITY IN THESE MATTERS, NOT OUT OF AN ATTITUDE OF VENGEANCE," HE SAID, "BUT TO SERVE AS A MODEL."

POLS ANALYZE SENTENCES

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7. (U) OPPOSITION POLITICIANS AND JURISTS IMMEDIATELY CONDEMNED THE SENTENCES AND THE TRIAL. CONGRESSWOMAN GLORIA HELFER (MDI) WONDERED HOW THE COURT COULD HAVE READ AND ANALYZED A CASE FILE OF THOUSANDS OF PAGES "IN A MATTER OF HOURS." SHE ASSERTED THAT THE SENTENCES HAD BEEN DECIDED BEFORE THE TRIAL BEGAN AND THAT ONLY "INJUSTICE" HAD BEEN DONE. IN CONTRAST, CARLOS TORRES Y TORRES LARA, OF FUJIMORIS PARTY, DESCRIBED THE SENTENCES AS "DRASTIC" AND "UNPRECEDENTED IN LATIN AMERICA."

8. (U) FOLLOWING THE MILITARY COURT'S ANNOUNCEMENT OF THE SENTENCES THE PROSECUTOR REQUESTED FOR EACH OF THE ACCUSED (REFTEL), OPPOSITION POLITICIANS HAD IMMEDIATELY CHARACTERIZED THEM AS INADEQUATE. MOST, HOWEVER, CONTINUED TO CRITICIZE THE WHOLE

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 PROCESS AS "UNCONSTITUTIONAL"; HENRY PEASE (MDI) STATED THAT THE COURT-MARTIAL SHOULD NOT EVEN TAKE PLACE AS LONG AS THE "LA CANTUTA LAW" WAS STILL BEING LEGALLY QUESTIONED. HE ASSERTED THAT "THE MILITARY PROSECUTOR IS ONLY SEEKING TO SHIELD (ARMY COMMANDER) HERMOZA AND (PRESIDENTIAL INTELLIGENCE ADVISER) MONTESINOS FROM BLAME." IF AN ARMY GENERAL IS PROSECUTED FOR NEGLIGENCE, PEASE REASONED, THEN SO SHOULD HERMOZA AND MONTESINOS. FERNANDO OLIVERA (FIM) SAID THAT THE TRUE CRIMINALS -- THOSE THAT GAVE THE ORDERS AND PARTICIPATED IN THE COVERUP -- WERE NOT EVEN BEING TRIED IN CONTRAST, FUJIMORI-PARTY CONGRESS MEMBER MARTHA CHAVEZ ASSERTED THAT THE SANCTIONS REQUESTED BY THE PROSECUTOR "PROVE THAT IN THIS COUNTRY NO ONE IS UNTOUCHABLE."

CIVILIAN PROSECUTOR: TRIAL A SHAM

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9. (C)

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[REDACTED] ASSERTED THAT THE MILITARY COURT'S DECISION NOT TO PROSECUTE SOSA AND CORAL WAS PROOF THAT THE WHOLE PROCESS WAS A SHAM. THE MILITARY HAD INDICTED THE TWO BY COPYING FROM [REDACTED] ACCUSATORY LIST, HE SAID; WHEN IT CAME TIME FOR THE TRIAL, THE MILITARY PROSECUTOR SUDDENLY DISCOVERED THAT NEITHER OF THE TWO WERE ARMY PERSONNEL AND THUS COULD NOT BE TRIED BY THE MILITARY COURT. "THE MILITARY JUSTICE SYSTEM HAS NOT DONE ANY OF ITS OWN WORK," SAID [REDACTED] DISMISSING THE WHOLE PROCESS AS "NOT CREDIBLE." [REDACTED] DOES NOT KNOW EXACTLY WHO SOSA AND CORAL ARE, BUT THEIR NAMES HAD COME UP ENOUGH TIMES DURING HIS INVESTIGATION THAT HE FELT THERE WAS SUFFICIENT CIRCUMSTANTIAL EVIDENCE TO INDICT THEM.)

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GENERAL, MAJORS REPORTEDLY PLEAD INNOCENT

10. (U) LIMA DAILY "LA REPUBLICA," QUOTING ANONYMOUS SOURCES WITH CLAIMED ACCESS TO THE MILITARY TRIAL, REPORTED FEBRUARY 19 AND 20 THAT GENERAL JUAN RIVERO LAZO; MAJOR SANTIAGO MARTIN RIVAS, THE ALLEGED COMMANDER OF THE LA CANTUTA [REDACTED]

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OPERATION; AND MAJOR CARLOS PICHILINGUE, THE ALLEGED ADMINISTRATIVE OFFICER; ALL DENIED RESPONSIBILITY FOR THE DISAPPEARANCES. MARTIN, ACCORDING TO THE ARTICLE, CLAIMED THAT HE WAS BEING FRAMED BY HUMAN RIGHTS GROUPS AND EXILED GENERAL RODOLFO ROBLES. THERE IS A PLOT TO BESMIRCH THE ARMY'S IMAGE, HE REPORTEDLY SAID, SPECULATING THAT THE KILLINGS COULD HAVE BEEN DONE BY TERRORISTS DISGUISED AS SOLDIERS.

11. (C) COMMENT: LA CANTUTA IS ONE OF THREE CASES IN WHICH MILITARY OFFICERS HAVE BEEN CONVICTED OF HUMAN RIGHTS ABUSES. IT IS THE ONLY CASE IN WHICH SUCH HIGH-RANKING PERSONNEL HAVE BEEN CONVICTED OF ABUSES. THE TRIAL'S LACK OF TRANSPARENCY MEANT THAT QUESTIONS ABOUT THE RESPONSIBILITIES OF HIGHER-RANKING ARMY AND CIVILIAN AUTHORITIES, BOTH FOR LA CANTUTA AND COLINA'S OTHER ACTIONS, WILL REMAIN CLOSED, AT LEAST FOR NOW. WHILE LA CANTUTA SENTENCES CAME ABOUT DUE TO AN EXTRAORDINARY COMBINATION OF DOMESTIC AND USG PRESSURE, THEY WILL STILL SEND A DISSUASIVE MESSAGE TO POTENTIAL ABUSERS -- ASSUMING THAT THOSE CONVICTED ACTUALLY SERVE THEIR SENTENCES. WHILE THE SENTENCES HAVE BEEN APPEALED, AND MAY BE REDUCED SOMEWHAT, THEY ARE MOST UNLIKELY TO BE REVERSED.

ADAMS

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