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SUBJECT: FINAL DRAFT 1988 HUMAN RIGHTS REPORT: PERU

1. LOU - NOFORN - ENTIRE TEXT.
2. FOLLOWING IS THE FINAL DRAFT OF THE SUBJECT REPORT AS PASSED TO US BY HA. ANY EGREGIOUS ERRORS SHOULD BE POINTED OUT TO DEPARTMENT ASAP, BUT REPORT MAY NOT BE REFINED FURTHER. POST MAY NOT RELEASE THE REPORT UNTIL IT RECEIVES INSTRUCTIONS TO DO SO (A DAY OR TWO BEFORE ITS RELEASE IN WASHINGTON), FROM THE DEPARTMENT.
3. BEGIN TEXT OF 1988 PERU HUMAN RIGHTS REPORT: PERU HAS A FREELY ELECTED DEMOCRATIC GOVERNMENT, WITH AN EXECUTIVE BRANCH HEADED BY A PRESIDENT, A BICAMERAL LEGISLATURE, A SEPARATE JUDICIARY, AND AN AUTONOMOUS ATTORNEY GENERAL. PERU'S HISTORY HAS BEEN PUNCTUATED BY PERIODS OF MILITARY RULE, MOST RECENTLY BETWEEN 1968 AND 1980. PRESIDENT ALAN

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GARCIA AND HIS CENTER-LEFT AMERICAN POPULAR REVOLUTIONARY ALLIANCE (APRA) WON THE LAST GENERAL ELECTIONS IN 1985 BY A LARGE MARGIN; REPRESENTATION IN CONGRESS RANGES FROM

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UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: SAM A. MOSKOWITZ
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CONSERVATIVE TO MARXIST. THE NEXT NATIONAL ELECTIONS ARE SCHEDULED FOR 1990.

PUBLIC SECURITY RESPONSIBILITIES ARE SHARED BY BOTH THE POLICE AND THE MILITARY. THE INTERIOR MINISTRY AND ITS POLICE SERVICES HAVE THE PRIMARY COUNTERTERRORIST ROLE IN LIMA AND THOSE DEPARTMENTS NOT UNDER A STATE OF EMERGENCY. THE MILITARY LEADS THE EFFORT TO COMBAT SUBVERSION OUTSIDE LIMA IN THE 43 PROVINCES NOW UNDER A STATE OF EMERGENCY. THESE STATES OF EMERGENCY PLACE ALL EXECUTIVE BRANCH AUTHORITY IN THE LOCAL MILITARY COMMAND, SUSPEND RESTRICTIONS ON ARBITRARY DETENTION AND THE REQUIREMENT FOR SEARCH WARRANTS, AND RESTRICT RIGHTS TO MOVEMENT AND ASSEMBLY. A HISTORY OF MILITARY COUPS HAS WEAKENED CIVILIAN CONTROL OVER THE MILITARY. THERE IS LITTLE OVERSIGHT OF MILITARY ACTIVITIES IN THE EMERGENCY ZONES BY CIVILIAN JUDGES OR PROSECUTORS, AND THE CONSTITUTIONAL RIGHTS OF PERSONS DETAINED BY THE MILITARY ARE ROUTINELY IGNORED.

PERU HAS A MIXED ECONOMY, AND PRIVATE PROPERTY IS GENERALLY RESPECTED. STRICT PRICE CONTROLS, HIGHER WAGES, AND RESTRICTIONS ON FOREIGN DEBT REPAYMENT BROUGHT TEMPORARY GROWTH TO THE PERUVIAN ECONOMY IN 1986 AND 1987. IT BECAME APPARENT BY EARLY 1988, HOWEVER, THAT THESE POLICIES WERE UNSUSTAINABLE. EXPORT EARNINGS FELL, UNEMPLOYMENT ROSE, CENTRAL BANK RESERVES PLUMMETED, AND THE FISCAL DEFICIT FUELED AN INFLATIONARY SPIRAL. AUSTERITY MEASURES INSTITUTED DURING 1988 WILL RESULT IN A FURTHER DEEPENING OF THE RECESSION AND HAVE ALREADY LIMITED OFFICIAL USE

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PRODUCED INCREASED SOCIAL UNREST.

SINCE 1980 THE SENDERO LUMINOSO (SHINING PATH) MAOIST GUERRILLAS HAVE BEEN ACTIVE PROPONENTS OF TERROR TO UNDERMINE DEMOCRACY AND THE ECONOMY. SENDERO IS A MAJOR HUMAN RIGHTS VIOLATOR AND BEARS HEAVY RESPONSIBILITY FOR THE RISE IN VIOLENCE IN PERU. IN THE FACE OF MINIMAL POPULAR SUPPORT FOR ITS VAGUE REVOLUTIONARY GOALS, IT REGULARLY ASSASSINATES DEVELOPMENT WORKERS, TEACHERS, POLICE, SOLDIERS, AND ORDINARY CITIZENS, PRINCIPALLY INDIAN RESIDENTS OF THE ANDEAN HIGHLANDS. SENDERO VIOLENCE ESCALATED IN 1988. AS MEASURED BY THE NUMBER OF REPORTED DEATHS, 1988 WAS THE MOST VIOLENT YEAR SINCE

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SENDERO ANNOUNCED ITS POPULAR WAR IN 1980. THE GROUP ENGAGED IN WIDESPREAD ECONOMIC SABOTAGE AND AN INCREASED LEVEL OF ASSASSINATIONS, ESPECIALLY IN RURAL AREAS. SENDERO ALSO OPERATED IN THE MAJOR COCA-PRODUCING AREA OF PERU, THE UPPER HUALLAGA VALLEY, WHERE IT BOTH DEFENDED PEASANT COCA PRODUCERS AGAINST TRAFFICKERS AND COOPERATED WITH TRAFFICKERS TO THWART LAW ENFORCEMENT EFFORTS. IN ADDITION, TWO OTHER SMALLER TERRORIST GROUPS ARE ACTIVE. IT IS BELIEVED THAT AT LEAST 1,100 PERSONS WERE KILLED IN TERRORIST INCIDENTS IN 1988.

DOCUMENTED CASES OF HUMAN RIGHTS ABUSES BY GOVERNMENT SECURITY FORCES CONTINUED IN 1988, EVEN THOUGH IT HAS BECOME MORE DIFFICULT TO CARRY OUT INDEPENDENT INVESTIGATIONS OF ALLEGED SUMMARY EXECUTIONS AND DETENTIONS BY THE MILITARY. REGIONAL MILITARY COMMANDS DENY ACCESS TO THE EMERGENCY ZONES WHERE THE VAST MAJORITY OF ALLEGED HUMAN RIGHTS VIOLATIONS BY BOTH THE MILITARY AND SENDERO OCCUR.

DISAPPEARANCES AND SUMMARY EXECUTIONS APPEAR TO HAVE INCREASED IN THE PAST 2 YEARS. RELIABLE HUMAN RIGHTS ORGANIZATIONS REPORTED 405 COMPLAINTS ALLEGING ARBITRARY DETENTIONS BY LIMITED OFFICIAL USE

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SECURITY FORCES, OF WHICH 125 WERE RESOLVED. THESE GROUPS FEAR THAT MOST OF THE REMAINDER ARE VICTIMS OF SUMMARY EXECUTIONS. THERE ARE CREDIBLE REPORTS OF THE USE OF TORTURE BY THE MILITARY. TRIALS OF MILITARY PERSONNEL ACCUSED OF HUMAN RIGHTS VIOLATIONS MOVE SLOWLY, AND NO MILITARY OR SECURITY PERSONNEL WERE CONVICTED OF HUMAN RIGHTS ABUSES IN 1988. CONGRESSIONAL INVESTIGATIONS OF ALLEGED ABUSES HAVE BEEN SEVERELY CRITICIZED AS INADEQUATE. INDEPENDENT INVESTIGATIONS OF ALLEGED MILITARY KILLINGS HAVE BEEN IMPEDED BY MILITARY COMMANDERS.

THE YEAR ALSO MARKED THE EMERGENCE OF AN EXTRALEGAL VIGILANTE GROUP CALLING ITSELF THE RODRIGO FRANCO DEMOCRATIC COMMAND. THE GROUP CLAIMED RESPONSIBILITY FOR THE MURDER OF A PROMINENT ATTORNEY AND IS ALSO RESPONSIBLE FOR THREATS AGAINST AN INDEPENDENT SPECIAL PROSECUTOR INVESTIGATING ALLEGED HUMAN RIGHTS VIOLATIONS BY THE MILITARY. THERE ARE REPORTS THAT EXTREMIST MEMBERS OF APRA OR THE SECURITY FORCES MAY BE USING THE GROUP'S NAME TO CONDUCT OPERATIONS AGAINST SUSPECTED TERRORISTS AND SYMPATHIZERS.

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RESPECT FOR HUMAN RIGHTS

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

A. POLITICAL KILLING

POLITICAL KILLINGS REMAINED A SIGNIFICANT PROBLEM IN 1988. SENDERO LUMINOSO CONTINUED TO ASSASSINATE POLICEMEN, SOLDIERS, GOVERNMENT AND RULING PARTY OFFICIALS, TEACHERS, ENGINEERS, AND DEVELOPMENT WORKERS, AS WELL AS INDIAN PEASANTS. OFFICIAL SOURCES REPORTED MORE THAN 1,100 DEATHS FROM TERRORIST

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VIOLENCE IN 1988. DUE TO THE ISOLATION OF MANY RURAL AREAS WHERE SENDERO IS MOST ACTIVE, THE NUMBER OF VICTIMS ALMOST SURELY IS UNDERREPORTED. SENDERO USED VIOLENCE IN THE COUNTRYSIDE, PARTICULARLY ASSASSINATIONS, TO IMPOSE ITS ADMINISTRATIVE CONTROL OVER CERTAIN AREAS, PUNISH SO-CALLED TRAITORS, AND ELIMINATE OPPOSITION. IN THE CITIES, SENDERO USED ATTACKS MORE FOR PROPAGANDA PURPOSES, ALTHOUGH IN 1988 THE ASSASSINATIONS OF FACTORY FOREMEN AND THREATS AGAINST UNION LEADERS APPEARED DESIGNED TO INCREASE SENDERO INFLUENCE IN SOME LABOR UNIONS. THE PATTERN OF SENDERO KILLINGS OF GOVERNMENT AND PARTY (APRA) OFFICIALS, WHICH ROSE SIGNIFICANTLY IN 1986 AND 1987, CONTINUED IN 1988.

SENDERO KILLINGS INCLUDED AT LEAST 62 PEASANTS IN 5 VILLAGES IN AYACUCHO DEPARTMENT IN DECEMBER 1987 AND JANUARY 1988. ALSO IN JANUARY, SENDERO COMBATANTS, DISGUISED AS SOLDIERS, ENTERED A VILLAGE IN LA MAR PROVINCE, ROUNDED UP THE VILLAGERS IN THE TOWN SQUARE, AND BEHEADED 24. IN FEBRUARY FIVE STATE TELECOMMUNICATIONS WORKERS WERE KILLED IN SAN MARTIN DEPARTMENT. IN MARCH SENDERO AMBUSHED A GOVERNMENT VEHICLE IN THE HUANUCO DEPARTMENT, KILLING 8 POLICE AND 7 CIVILIANS. IN APRIL 6 CIVILIAN AUTHORITIES WERE EXECUTED IN THE SQUARE OF THEIR VILLAGE IN THE LIMA DEPARTMENT. IN JUNE RESIDENTS OF A HUANTA DEPARTMENT VILLAGE WERE ASSEMBLED TO WITNESS THE EXECUTION OF 14 PERSONS. IN JULY A JUDGE AND THE GOVERNOR OF THE ICA DEPARTMENT WERE ASSASSINATED. THE LIEUTENANT GOVERNOR, AN ENGINEER, AND ANOTHER GOVERNMENT WORKER WERE KILLED IN JUNIN DEPARTMENT IN AUGUST. IN SEPTEMBER A LIEUTENANT GOVERNOR AND HIS WIFE WERE SHOT, AND THEIR TWO MINOR CHILDREN WERE ABDUCTED AND REMAIN MISSING. AN AMERICAN CITIZEN WORKING IN A RURAL DEVELOPMENT PROJECT IN HUANCAYO

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DEPARTMENT AND A PERUVIAN COLLEAGUE WERE ASSASSINATED ON JUNE 14 ON A RURAL HIGHWAY.

THE MINISTER OF DEFENSE REPORTS THAT IN 1988 AT LEAST 282 POLICE AND MILITARY AND 923 CIVILIANS WERE KILLED BY SENDERO.
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AT LEAST 70 OF THE MORE THAN 600 KILLED IN 1988 WERE ENGINEERS, AGRONOMISTS, SCHOOL TEACHERS, AND OTHER PROFESSIONALS.

A SECOND TERRORIST GROUP, THE TUPAC AMARU REVOLUTIONARY MOVEMENT (MRTA), CONTINUES TO OPERATE PRIMARILY IN LIMA AND ITS ENVIRONS. THOUGH THE MRTA CHIEFLY SEEKS THE DESTRUCTION OF PROPERTY THROUGH THE SELECTIVE BOMBING OF BANKS, FACTORIES, FOREIGN BUSINESSES, AND DIPLOMATIC INSTALLATIONS, THESE BOMBINGS KILLED 6 PEOPLE IN 1988. IN A LIMA HOSPITAL, MRTA ALSO ASSASSINATED A WOMAN WHOM IT CLAIMED WAS A POLICE INFORMER.

THE GOVERNMENT CLAIMS TO HAVE KILLED 4,500 TERRORISTS SINCE 1980, INCLUDING APPROXIMATELY 630 IN 1988. THOUGH THE MILITARY MAY INFLATE THIS COUNT, CONFIRMED KILLINGS OF TERRORISTS MAY ALSO BE UNDERREPORTED SINCE SENDERO ATTEMPTS TO RETRIEVE ALL ITS CASUALTIES, INCLUDING FATALITIES, FOLLOWING CLASHES WITH THE MILITARY. LOCAL HUMAN RIGHTS GROUPS CLAIM THAT A SIGNIFICANT BUT UNKNOWN NUMBER OF CAPTURED TERRORISTS AND INNOCENT CIVILIANS HAVE BEEN EXECUTED BY THE MILITARY.

THERE ARE NO OFFICIAL STATISTICS ON THE NUMBER OF SUMMARY EXECUTIONS IN 1988. SINCE THE NUMBER OF CONFIRMED DISAPPEARANCES SHARPLY ROSE IN 1988, IT APPEARS PROBABLE THAT THE NUMBER OF SUMMARY EXECUTIONS, REPRESENTED BY THOSE WHO DISAPPEARED AND WHO DO NOT REAPPEAR WITHIN A REASONABLE PERIOD OF TIME, ALSO SIGNIFICANTLY INCREASED IN 1988. AMNESTY INTERNATIONAL (AI), IN AN AUGUST 1988 REPORT, CHARGED THAT THE DECREASE IN THE NUMBER OF SUMMARY EXECUTIONS ACKNOWLEDGED TO HAVE BEEN COMMITTED BY GOVERNMENT FORCES IS THE RESULT OF A GOVERNMENT AND MILITARY EFFORT TO HIDE ABUSES. MOST PRESS AND HUMAN RIGHTS ORGANIZATIONS ARE ROUTINELY BARRED FROM ENTERING
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THE EMERGENCY ZONES WHERE ALLEGED ABUSES OCCUR. TWO NOTABLE CASES OF PROBABLE MILITARY KILLINGS OCCURRED IN 1988. ON MAY 14, THE DAY FOLLOWING A SENDERO AMBUSH WHICH KILLED 4 SOLDIERS AND WOUNDED 15, THE MILITARY ALLEGEDLY ENTERED THE AYACUCHO DEPARTMENT VILLAGE OF CAYARA AND ROUNDED UP AND KILLED AT LEAST 28 VILLAGERS. CAYARA VILLAGERS REPORTED BEING FORCED INTO THEIR HOMES BY THE MILITARY WHILE SEVERAL VILLAGE RESIDENTS WERE MURDERED IN THE VILLAGE CHURCH. OTHER WITNESSES REPORTED THAT A MILITARY PATROL TORTURED AND KILLED A NUMBER OF MEN RETURNING FROM WORK IN THEIR FIELDS. THE MILITARY CLAIMED A NUMBER OF TERRORISTS WERE KILLED IN A SHOOT-OUT INSIDE THE VILLAGE. AN INDEPENDENT PROSECUTOR BEGAN TO INVESTIGATE THE INCIDENT, BUT THE BODIES OF TWO PRESUMED VICTIMS DISAPPEARED FROM A MASS GRAVE WHERE THEY HAD BEEN DISCOVERED. (IT IS BELIEVED THAT THE MILITARY REMOVED THE BODIES AND BURIED THEM IN AN UNKNOWN SECOND SITE.) ON DECEMBER 15 THE MAYOR OF CAYARA AND HIS SECRETARY, BOTH OF WHOM WERE WITNESSES OF THE MASSACRE, WERE SHOT TO DEATH, ALONG WITH A BUS DRIVER, AFTER A GROUP OF MASKED MEN STOPPED A PUBLIC BUS, EXAMINED THE IDENTITY DOCUMENTS OF ALL THE PASSANGERS ABOARD, AND SINGLED OUT THE MAYOR AND HIS AIDE FOR DEATH. THESE EVENTS, TOGETHER WITH THE DISAPPEARANCE OF OTHER WITNESSES TO THE KILLINGS, HAS CONVINCED MOST IMPARTIAL OBSERVERS THAT THE MILITARY DID INDEED KILL NONCOMBATANT VILLAGERS.

A SECOND WELL-PUBLICIZED CASE WAS THE ATTEMPTED SUMMARY EXECUTION IN MAY OF POSTAL WORKER SONIA MUNOZ OF HUANCVELICA DEPARTMENT. SHE STATED THAT SHE WAS TAKEN FROM HER HOME TO A MILITARY BARRACKS, TORTURED, SHOT SEVERAL TIMES, AND LEFT FOR DEAD BY SOLDIERS WHO PRESUMABLY BELIEVED HER TO BE A SENDERO COLLABORATOR. THE PERPETRATORS ATTEMPTED TO DISGUISE THEIR DEED AS A SENDERO ASSASSINATION BY LEAVING A NOTE AFFIXED TO HER CLOTHING STATING THAT SHE HAD BEEN KILLED FOR BEING AN INFORMANT.

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IN NEITHER THE CAYARA NOR THE MUNOZ CASES, NOR IN ANY OTHER 1988 INCIDENT OF ALLEGED MILITARY OR POLICE HUMAN RIGHTS VIOLATIONS, WERE THE RESULTS OF OFFICIAL INVESTIGATIONS MADE PUBLIC, NOR WERE CHARGES BROUGHT AGAINST SECURITY OFFICIALS. FOLLOWING THE CAYARA MASSACRE, TWO WITNESSES LED PRESS AND OTHER OBSERVERS TO A COMMON GRAVE IN WHICH THREE BODIES WERE FOUND. PRESIDENT GARCIA STATED THAT AYACUCHO'S SPECIAL

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PROSECUTOR, DR. CARLOS ESCOBAR, WOULD RECEIVE FULL SUPPORT FOR HIS INVESTIGATION OF THE INCIDENT. NEVERTHELESS, THE PROSECUTOR'S REQUESTS FOR ASSISTANCE FROM THE AYACUCHO MILITARY COMMAND WERE DENIED OR IGNORED. DR. ESCOBAR STATED PUBLICLY THAT THE MILITARY COMMAND HAS HINDERED HIS INVESTIGATION. TWO CONGRESSIONAL COMMITTEES APPOINTED TO INVESTIGATE THE MASSACRE HAVE MADE INCONCLUSIVE REPORTS THAT HAVE BEEN SEVERELY CRITICIZED BY RESPONSIBLE, INFORMED OBSERVERS. DR. ESCOBAR WAS SUBSEQUENTLY TRANSFERRED FROM HIS SPECIAL ASSIGNMENT IN AYACUCHO. THE GOVERNMENT INITIALLY ANNOUNCED HIS OFFICE WAS BEING CLOSED FOR BUDGETARY REASONS, BUT THEN ANNOUNCED THE OFFICE WOULD BE REOPENED WITH A DIFFERENT PROSECUTOR. IT APPEARS DR. ESCOBAR'S REMOVAL WAS THE RESULT OF HIS PUBLIC CONCLUSION THAT MILITARY OFFICERS WERE GUILTY OF MURDER AND SHOULD BE PROSECUTED.

THE TRIAL OF 77 ARMY AND POLICE OFFICIALS ACCUSED OF USING EXCESSIVE FORCE IN THE 1986 DEATHS OF 124 INMATES AT THE LURIGANCHO PRISON REMAINS IN PROCESS. THE MILITARY JUSTICE CODE CONTAINS NO SPECIFIC LANGUAGE FOR DEALING WITH CASES OF KILLING, KIDNAPING, OR TORTURE--ONLY "NEGLIGENCE" AND "ABUSE OF AUTHORITY." A RELIABLE PUBLIC POLLING ORGANIZATION FOUND IN JANUARY 1988 THAT 86 PERCENT OF PERUVIANS IN A SAMPLE SURVEY BELIEVED THAT THE MILITARY KILLS INNOCENT PEOPLE IN ITS ANTI-INSURGENCY EFFORTS.

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ALLEGATIONS IN 1987 THAT MEMBERS OF APRA OR SECURITY FORCES WERE USING PARAMILITARY VIOLENCE AGAINST SUSPECTED TERRORISTS WERE LENT CREDENCE BY THE EMERGENCE IN 1988 OF THE "RODRIGO FRANCO DEMOCRATIC COMMAND." (RODRIGO FRANCO, AN APRA PARTY LEADER, WAS ASSASSINATED BY SENDERO IN 1987.) THE FRANCO COMMAND CLAIMED RESPONSIBILITY FOR THE JULY ASSASSINATION OF ATTORNEY MANUEL FEBRES, DEFENSE COUNSEL FOR ACCUSED SENDERO LEADER OSMAN MOROTE. AYACUCHO SPECIAL PROSECUTOR ESCOBAR RECEIVED DEATH THREATS IN AUGUST FROM INDIVIDUALS CLAIMING MEMBERSHIP IN THE GROUP. THE PRESS IN AUGUST REPORTED THE ARREST OF 14 APRA YOUTH ALLEGEDLY ARMED WITH REVOLVERS AND EXPLOSIVES NEAR THE SAN MARCOS UNIVERSITY. IN SEPTEMBER HOSPITAL WORKERS IN TINGO MARIA, WHO HAD CRITICIZED THE LACK OF GOVERNMENT SUPPORT, CLAIMED THEY WERE THREATENED BY THE COMMAND. ALSO IN SEPTEMBER, THE HOME IN HUANUCO DEPARTMENT OF A REPORTER FOR THE PRO-SENDERO PAPER EL DIARIO WAS DYNAMITED, ALLEGEDLY BY THIS VIGILANTE GROUP.

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B. DISAPPEARANCE

SINCE 1983 THERE HAVE BEEN BETWEEN 2,500 AND 3,200 CASES OF DISAPPEARANCES INVOLVING THE SECURITY FORCES. THE MAJORITY OCCURRED PRIOR TO 1985. LOCAL HUMAN RIGHTS GROUPS ESTIMATE THAT THERE WERE APPROXIMATELY 280 UNRESOLVED DISAPPEARANCES IN 1988. MOST INVOLVED THE DETENTION OF PERSONS SUSPECTED OF TERRORIST LINKS IN THE EMERGENCY ZONES, BUT THERE HAVE BEEN NOTABLE CASES IN LIMA AS WELL. SEVERAL PROMINENT CASES FROM 1986 AND 1987, ALL IN LIMA, REMAIN UNRESOLVED. THOUGH A LARGER PERCENTAGE OF THOSE DETAINED BY SECURITY FORCES WITHIN THE SECURITY ZONES HAVE REAPPEARED, HUMAN RIGHTS GROUPS BELIEVE THAT MOST OF THE REMAINDER WERE OR WILL BE SUMMARILY EXECUTED. THE BODIES OF DISAPPEARANCE VICTIMS ARE RARELY FOUND. BASED ON THE TESTIMONY OF SURVIVORS, SUCH AS SONIA MUNOZ, IT APPEARS THAT MOST VICTIMS ARE TAKEN TO MILITARY BASES FOR INTERROGATION. SOME ARE TURNED OVER TO THE POLICE AFTER LENGTHY DETENTIONS AND AFTERWARDS ARE FREED FOR LACK OF

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INCRIMINATING EVIDENCE. HUMAN RIGHTS GROUPS ARGUE PERSUASIVELY THAT THE REST ARE SUMMARILY EXECUTED BY THE ARMED FORCES. IN JULY 1988, THE MRTA KIDNAPED AN INDUSTRIALIST AND RETIRED MILITARY OFFICER TO DEMAND RANSOM. THE VICTIM WAS RELEASED IN OCTOBER, BUT ANOTHER BUSINESSMAN WAS KIDNAPED BY ALLEGED MRTA TERRORISTS IN DECEMBER.

A SEPTEMBER 1988 REPORT BY THE PERUVIAN MULTIPARTY SENATE COMMISSION ON VIOLENCE AND PACIFICATION STATED: "THERE ARE VIOLATIONS OF HUMAN RIGHTS, CONSISTING OF CRIMES AGAINST INNOCENT POPULATIONS: EXTRAJUDICIAL EXECUTIONS, TORTURE, ARBITRARY DETENTIONS, AND DISAPPEARANCES; AND APPARENTLY INVOLVED IN THESE CONDEMNABLE ACTS ARE MEMBERS OF THE ARMED FORCES AND THE POLICE."

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

ALTHOUGH THE CONSTITUTION PROHIBITS TORTURE AND INHUMAN OR HUMILIATING TREATMENT, CHARGES OF BRUTALITY TOWARD DETAINEES ARE COMMON. HUMAN RIGHTS GROUPS CLAIM THAT SUSPECTED SUBVERSIVES HELD BY THE GOVERNMENT ARE ROUTINELY TORTURED AT MILITARY DETENTION CENTERS. LAWYERS AND OTHER PERSONS FAMILIAR WITH THE POLICE AND JUDICIAL SYSTEM CONCUR. IN 1987 THE PUBLIC MINISTRY NOTED THAT THE MAJORITY OF DETAINEES HELD

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BY MILITARY AUTHORITIES SHOWED SIGNS OF MISTREATMENT OR TORTURE. IN 1988 THERE WERE SEVERAL RELIABLE ACCOUNTS FROM RELEASED DETAINEES OF TORTURE OR MISTREATMENT BOTH BY POLICE AND MILITARY, INCLUDING EYEWITNESS ACCOUNTS BY TWO AMERICAN CITIZENS BRIEFLY DETAINED ON TERRORISM CHARGES AND THEN RELEASED.

THE 1987 TERRORISM LAW REQUIRES THAT PERSONS DETAINED FOR LIMITED OFFICIAL USE

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TERRORISM BE INTERROGATED ONLY IN THE PRESENCE OF A PUBLIC PROSECUTOR AND A DEFENSE ATTORNEY. IN THESE CASES, A COURT INDICTMENT MUST BE SOUGHT WITHIN 15 DAYS OF ARREST OR THE PRISONER MUST BE RELEASED. THERE ARE FEW RELIABLE REPORTS OF VIOLATIONS OF THESE STANDARDS IN AREAS ADMINISTERED BY THE INTERIOR MINISTRY'S INVESTIGATIVE POLICE. IN THE EMERGENCY ZONES (EXCEPT LIMA AND CALLAO), THE MILITARY IS NOT REQUIRED TO ADHERE TO THESE REQUIREMENTS UNDER THE STATE OF EXCEPTION. (A STATE OF EXCEPTION IS THE CONSTITUTIONAL MECHANISM WHEREBY CERTAIN RIGHTS NORMALLY GUARANTEED A CITIZEN MAY BE DENIED.) THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) AGAIN IN 1988 WAS DENIED ACCESS TO DETAINEES IN THE MILITARY-CONTROLLED EMERGENCY ZONES AND TO POLICE DETENTION CENTERS WHERE INTERROGATIONS OCCUR PRIOR TO INDICTMENT. MANY VICTIMS OF SENDERO ALSO SHOW SIGNS OF HAVING BEEN TORTURED BEFORE DEATH. TORTURE OF THOSE VICTIMS OFTEN FOLLOWS A BRIEF "TRIAL," NORMALLY HELD IN THE PRESENCE OF RURAL VILLAGERS. SENDERO USES PARTICULARLY BRUTAL METHODS OF EXECUTION, INCLUDING SLITTING THROATS, STRANGULATION, AND BURNING. IN ADDITION THERE ARE CREDIBLE REPORTS THAT SENDERO FREQUENTLY BEATS OR TORTURES PEASANTS WHO WITHHOLD THEIR SUPPORT.

PRISON CONDITIONS ARE EXTREMELY POOR, AND PRISONERS ARE LIKELY TO EXPERIENCE UNSANITARY FACILITIES, POOR NUTRITION AND HEALTH CARE, AND ILL TREATMENT BY PRISON STAFF. IN 1988 THERE WAS A WELL-DOCUMENTED CASE OF A FOREIGN PRISONER DYING OF PNEUMONIA DUE TO THE NEGLIGENCE OF PRISON OFFICIALS. BECAUSE OF THE LARGE NUMBERS OF CONVICTED AND ACCUSED TERRORISTS, MANY PRISONS HAVE REPORTEDLY FALLEN UNDER SENDERO OR MRTA CONTROL. PRISON VISITORS REPORT OPEN DISPLAYS OF SENDERO PROPAGANDA, THE FREE EXERCISE OF SENDERO POLITICAL INDOCTRINATION PROGRAMS, AND, IN AT LEAST ONE CASE IN 1988, THE EXECUTION OF A FELLOW PRISONER WHO WAS ACCUSED OF BEING AN INFORMANT BY SENDERO INMATES.

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D. ARBITRARY ARREST, DETENTION, OR EXILE
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THE CONSTITUTION, THE PENAL CODE, AND ANTITERRORIST LEGISLATION CLEARLY DELINEATE THE ARREST AND DETENTION PROCESS. HOWEVER, THESE PROTECTIONS ARE SUSPENDED IN THOSE AREAS UNDER A STATE OF EMERGENCY. IN AREAS NOT SUBJECT TO A STATE OF EMERGENCY, A WARRANT APPROVED BY A PUBLIC MINISTRY PROSECUTOR IS REQUIRED FOR ARREST. PERSONS ARRESTED MUST BE ARRAIGNED WITHIN 24 HOURS, EXCEPT IN CASES OF DRUG TRAFFICKING, TERRORISM, OR ESPIONAGE, FOR WHICH THE LIMIT IS 15 DAYS. DETAINEES HAVE THE RIGHT TO CHOOSE THEIR OWN COUNSEL, OR THE GOVERNMENT PROVIDES COUNSEL AT NO CHARGE. ARRESTED PERSONS ARE ENTITLED TO HAVE AN ATTORNEY PRESENT WHEN THEY MAKE STATEMENTS TO THE POLICE. UNDER THE 1987 TERRORISM LAW, POLICE MUST ALSO NOTIFY THE DETAINEES' FAMILY AND HUMAN RIGHTS GROUPS OF AN ARREST. THERE IS NO BAIL OR PROVISIONAL LIBERTY FOR PERSONS ACCUSED OF TERRORISM.

ARREST PROCEDURES ARE DIFFERENT IN THE RURAL EMERGENCY ZONES. THE ARMED FORCES DO NOT NEED AN ARREST WARRANT, AND DETAINEES ARE OFTEN DENIED ACCESS TO AN ATTORNEY DURING INTERROGATION AND TO FAMILY MEMBERS DURING THEIR IMPRISONMENT. ALL DETAINEES, INCLUDING THOSE IN THE EMERGENCY ZONES, HAVE THE RIGHT TO SEEK JUDICIAL DETERMINATION OF THE LEGALITY OF THEIR DETENTION, BUT THIS RIGHT IS ROUTINELY DISREGARDED BY MILITARY COMMANDERS IN THE EMERGENCY ZONES. OF THE SEVERAL THOUSAND PRISONERS HELD BY THE MILITARY INSIDE THE EMERGENCY ZONES, HUMAN RIGHTS GROUPS KNOW OF FEW WHO WERE TURNED OVER TO CIVILIAN AUTHORITIES FOR PROSECUTION.

SINCE 1986, HUMAN RIGHTS GROUPS NOTE THAT AN INCREASING NUMBER OF PERSONS DETAINED BY THE MILITARY IN THE EMERGENCY ZONES REAPPEARED AFTER A PERIOD OF INCOMMUNICADO DETENTION. THIS MAY REFLECT THE RESULT OF GOVERNMENT EFFORTS TO REDUCE

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LONG-TERM DETENTIONS AND SUMMARY EXECUTIONS. ARBITRARY ARRESTS AND DETENTIONS IN THE EMERGENCY ZONES IN 1988 ARE ESTIMATED IN THE HUNDREDS.

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IN 1988 THE MILITARY BEGAN TO DETAIN PERSONS ENTERING THE EMERGENCY ZONES TO INVESTIGATE HUMAN RIGHTS CASES. IN JULY, 4 SOCIAL WORKERS FROM A CATHOLIC SOCIAL AGENCY WERE DETAINED FOR 28 HOURS WITHOUT CHARGES. ALSO IN JULY, FIVE MEMBERS OF A PARISH ORGANIZATION WERE HELD FOR 48 HOURS WITHOUT CHARGES. THE FIVE WERE ARRESTED WHILE INVESTIGATING THE ARREST OF A CATHOLIC PRIEST AND A LAY WORKER. IN LIMA, A CATHOLIC PRIEST WAS DETAINED ON THREE OCCASIONS AND QUESTIONED ABOUT HIS LABOR ORGANIZING ACTIVITIES. FOLLOWING THE CAYARA KILLINGS, THE MILITARY ARRESTED A NUMBER OF CAYARA VILLAGERS, INCLUDING SOME WHO CLAIMED TO HAVE WITNESSED THE MASSACRE. SEVERAL HAVE FAILED TO REAPPEAR, AND THE MILITARY AUTHORITIES DO NOT ACKNOWLEDGE THEIR ARREST OR DETENTION.

THE CONSTITUTION PROHIBITS, AND THERE HAVE BEEN NO KNOWN CASES OF, INVOLUNTARY EXILE IN THE PAST 8 YEARS. WITH REGARD TO FORCED OR COMPULSORY LABOR, SEE SECTION 6.C.

E. DENIAL OF FAIR PUBLIC TRIAL

THE JUDICIARY IS A SEPARATE BRANCH OF GOVERNMENT. SUPREME COURT JUDGES ARE NOMINATED BY THE PRESIDENT AND RATIFIED BY THE SENATE. ALL JUDGES MAY SERVE UNTIL AGE 70. IN THE PERUVIAN LEGAL SYSTEM, WHICH IS BASED ON THE NAPOLEONIC CODE, ONCE CRIMINAL CHARGES ARE FILED, A JUDGE DETERMINES WHETHER PROBABLE CAUSE EXISTS. THE JUDICIAL PROCESS PRIOR TO TRIAL MAY LAST SEVERAL MONTHS, FOLLOWED BY A PUBLIC TRIAL. DEFENDANTS HAVE THE RIGHT TO BE PRESENT AT THE TRIAL. THERE IS NO JURY TRIAL; VERDICTS ARE RENDERED BY THE JUDGE. SENTENCES MAY BE APPEALED, AND JUDGES MAY SEND CASES BACK TO LOWER COURTS FOR ADDITIONAL INVESTIGATION. THERE ARE TOO FEW PUBLIC DEFENDERS FOR THE LARGE CASELOADS. MANY JUDGES ON THE LIMITED OFFICIAL USE

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SUPERIOR AND SUPREME COURTS ARE ACTIVE IN POLITICAL PARTIES, AND THERE ARE OCCASIONAL CLAIMS THAT DECISIONS HAVE BEEN POLITICALLY MOTIVATED.

COURTS FACE SEVERE BACKLOGS, A PRODUCT OF INEFFICIENCY, INFLUENCE PEDDLING, AND THE SHARP INCREASE IN TERRORISM CASES. THE MINISTRY OF JUSTICE REPORTED IN JULY 1988 THAT THERE WAS A BACKLOG OF NEARLY 45,000 CRIMINAL CASES. THE GOVERNMENT ALSO ACKNOWLEDGED THAT A MAJORITY OF PRISONERS HAVE NOT BEEN SENTENCED, BUT REMAIN AT SOME STAGE OF THE TRIAL PROCESS. HUMAN RIGHTS GROUPS HAVE DOCUMENTED NUMEROUS CASES

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OF PERSONS WHO HAVE BEEN DETAINED WITHOUT BAIL, AWAITING TRIAL, FOR PERIODS UP TO 4 YEARS. THERE ARE ALSO WIDESPREAD CHARGES OF CORRUPTION AND THE SUBORNING OF JUDGES, POLICE, AND WITNESSES AT ALL STAGES OF THE JUDICIAL PROCESS.

THREATS AND INTIMIDATION OF JUDGES HANDLING TERRORISM CASES REPRESENT A SERIOUS PROBLEM, ACCOUNTING IN PART FOR THE LOW CONVICTION RATE OF ACCUSED TERRORISTS. FEWER THAN 20 PERCENT OF THOSE ARRESTED FOR SECURITY VIOLATIONS ARE CONVICTED, A NOTORIOUSLY LOW RATE THAT LEADS TO POLICE FRUSTRATION WITH THE JUDICIAL PROCESS AND PUBLIC TOLERANCE OF POLICE ABUSES. THE JULY 1988 ACQUITTAL OF SUSPECTED TERRORIST AND SENDERO LEADER OSMAN MOROTE ON TWO OF THE EIGHT INITIAL CHARGES AGAINST HIM IS BELIEVED TO HAVE BEEN PARTIALLY THE RESULT OF DEATH THREATS AGAINST THE JUDGES HEARING THE CASE (INCLUDING A BREAK-IN AT THE PROSECUTOR'S HOME). MOROTE'S ACQUITTAL WAS SUBSEQUENTLY REVERSED ON APPEAL, BUT THIS HAS DONE LITTLE TO RESTORE FAITH IN THE JUDICIAL SYSTEM. SIMILARLY, THE AUGUST 1988 RELEASE OF CONVICTED COCAINE TRAFFICKER PERCILES SANCHEZ WAS CITED AS EVIDENCE OF JUDICIAL WEAKNESS.

WELL-INFORMED LAWYERS WERE CRITICAL OF THE LACK OF COOPERATION
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BETWEEN THE SPECIAL INVESTIGATIONS POLICE UNDER THE INTERIOR MINISTRY WHO INVESTIGATE LEADING TO ARREST, AND THE PROSECUTORS UNDER THE PUBLIC MINISTRY WHO CONDUCT THEIR OWN INVESTIGATIONS AS A PART OF THE TRIAL PROCESS.

CONGRESS CREATED SPECIAL TRIBUNALS TO HEAR TERRORISM CASES IN 1987, AND PROMISED GREATER SECURITY MEASURES TO PROTECT JUDGES AND WITNESSES. THERE WERE IMMEDIATE PROBLEMS WITH FINDING JUDGES WHO WERE WILLING TO SERVE ON THESE COURTS, IN PROVIDING THE GUARANTEES OF SAFETY REQUIRED IN THE ENABLING LEGISLATION, AND WITH THE LARGE BACKLOG OF CASES. OVERWHELMED BY THESE PROBLEMS, THE SPECIAL TRIBUNALS WERE ABOLISHED IN APRIL, BUT PRESIDENT GARCIA PROPOSED THEIR REESTABLISHMENT IN JULY 1988. BY YEAR'S END, NO FURTHER ACTION HAD BEEN TAKEN.

THE CONSTITUTION MANDATES THAT CIVILIANS BE TRIED IN CIVILIAN COURTS. THE SUPREME COURT DECIDES WHETHER MILITARY OR POLICE OFFENDERS ARE TRIED IN CIVILIAN COURTS OR IN A SEPARATE MILITARY COURT SYSTEM. THE MILITARY GENERALLY ASSERTS ITS JURISDICTION IN THESE CASES, AND THE COURT GENERALLY RULES IN ITS FAVOR. THE LAST ATTEMPT TO HAVE A CIVILIAN COURT TRY A

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MILITARY OFFICER OCCURRED IN 1986, AND IT WAS THWARTED WHEN THE OFFICER FLED TO AVOID TRIAL. THE MILITARY COURT HEARING OTHER CHARGES IN THIS SAME CASE RULED IN DECEMBER THAT THERE WAS INSUFFICIENT EVIDENCE TO CONVICT ANY OF THOSE CHARGED IN THE CASE. THE CIVILIAN COURTS ARE MAKING SLOW PROGRESS ON SEVERAL CASES INVOLVING ALLEGED POLICE VIOLATIONS OF HUMAN RIGHTS. ONGOING CASES INCLUDE THOSE AGAINST POLICE CHARGED IN THE 1982 KILLING OF PRISONERS IN AN AYACUCHO HOSPITAL, THE 1982 DEATH OF FRANCISCO NUFFLO, AND THE 1986 TORTURE OF DETAINEES IN A CUSCO POLICE STATION. CONVICTIONS WERE HANDED DOWN AGAINST POLICE ACCUSED IN KILLINGS IN 1983 AND 1984.

MILITARY TRIALS ARE NOT PUBLIC, AND LITTLE IS KNOWN ABOUT SPECIFIC CASES. ALTHOUGH THE MILITARY CLAIMS THAT HUMAN RIGHTS OFFENDERS ARE SEVERELY DISCIPLINED, NO MEMBER OF THE LIMITED OFFICIAL USE

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ARMED FORCES HAS EVER BEEN CONVICTED IN EITHER MILITARY OR CIVILIAN COURTS FOR HUMAN RIGHTS VIOLATIONS. CASES REPORTEDLY PENDING IN MILITARY COURTS INCLUDE CHARGES AGAINST: A LIEUTENANT FOR THE 1985 MURDER OF 69 PERSONS IN ACCOMARCA; AN OFFICER FOR THREE 1985 HUANUCO DEATHS; OFFICERS ACCUSED OF EXECUTIONS IN 1986 IN PARCO AND POMATAMBO; AND MILITARY PERSONNEL INVOLVED IN THE KILLINGS IN 1986 AT LURIGANCHO PRISON. IN THE LURIGANCHO CASE, THE MILITARY PROSECUTOR ASKED FOR SENTENCES RANGING BETWEEN 6 AND 25 YEARS AGAINST THE 77 ACCUSED SECURITY FORCE MEMBERS (6 ARMY OFFICERS, 20 POLICE OFFICERS, AND 51 POLICE ENLISTED MEN). THE PROSECUTOR REQUESTED A 25-YEAR SENTENCE FOR POLICE COLONEL ROLAND CABEZAS AND 6 YEARS FOR ARMY GENERAL JORGE RABANAL.

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

THE CONSTITUTION STIPULATES THAT THE POLICE NEED A JUDICIAL WARRANT TO ENTER A PRIVATE DWELLING, AND THIS IS GENERALLY RESPECTED IN PRACTICE. THE REQUIREMENT IS SUSPENDED IN THE EMERGENCY ZONES, HOWEVER, AND SECURITY FORCES IN THOSE AREAS ROUTINELY CONDUCT SEARCHES OF PRIVATE HOMES WITHOUT WARRANTS.

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

THE CONSTITUTION PROVIDES FOR FREEDOM OF SPEECH AND THE

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PRESS. WITH 7 TELEVISION STATIONS, OVER 50 RADIO STATIONS, 15 DAILY NEWSPAPERS, AND MANY MAGAZINES IN LIMA ALONE, PERUVIANS HAVE ACCESS TO NEWS AND OPINION OF EVERY POLITICAL VIEWPOINT, TERRORIST GROUPS INCLUDED. THE MEDIA ARE HIGHLY PARTISAN. THE GOVERNMENT OWNS ONE OF THE TWO NATIONAL TELEVISION LIMITED OFFICIAL USE

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NETWORKS, A NATIONAL RADIO NETWORK, AND THREE NEWSPAPERS; THE GOVERNMENT PARTY CONTROLS TWO NEWSPAPERS AND A MAGAZINE. MOST MAJOR OPPOSITION PARTIES CONTROL THEIR OWN NEWSPAPERS, AND OPPOSITION FIGURES ALSO HAVE FREQUENT ACCESS TO THE GOVERNMENT MEDIA.

FEARS OF GOVERNMENT TAKEOVERS OF THE MEDIA IN THE WAKE OF THE 1987 BANK NATIONALIZATION, AND OF GOVERNMENT MANIPULATION OF NEWSPRINT SUPPLIES AND FOREIGN EXCHANGE, DID NOT MATERIALIZE. NEVERTHELESS, THERE ARE STILL OCCASIONAL AND CREDIBLE COMPLAINTS OF GOVERNMENT PRESSURE ON THE MEDIA AND RESTRICTIONS ON JOURNALISTS. THERE ARE OCCASIONAL VIOLATIONS OF THE CONSTITUTIONAL GUARANTEE OF A FREE PRESS, BUT THERE IS NO DISCERNIBLE TREND, NOR DO THEY CONSTITUTE GOVERNMENT POLICY.

JOURNALISTS ARE EFFECTIVELY BARRED FROM TRAVELING IN THE RURAL AREAS OF THE EMERGENCY ZONES, AND THOSE WHO ATTEMPT TO DO SO ARE OCCASIONALLY DETAINED BY THE MILITARY, ALTHOUGH THEY ARE GENERALLY RELEASED WITHIN HOURS. THE GOVERNMENT REFUSAL TO ALLOW THE MEDIA FREE ACCESS TO THE VILLAGE OF CAYARA IN THE WAKE OF AN ALLEGED MASSACRE THERE PROVOKED CRITICISM AND COMPLAINTS. THERE ARE ALSO FREQUENT COMPLAINTS OF POLICE CONFISCATION OF VIDEO AND PHOTOGRAPHIC MATERIAL OF EVENTS THE GOVERNMENT DOES NOT WANT PUBLICIZED.

ON AUGUST 20, POLICE SEIZED SEVERAL THOUSAND COPIES OF THE PRO-SENDERO DAILY EL DIARIO. THE EDITION CONTAINED A PURPORTED INTERVIEW WITH SENDERO LEADER ABIMAEEL GUZMAN. THREE DAYS LATER, POLICE DETAINED LUIS ARCE BORJA, THE NEWSPAPER'S EDITOR, ON CHARGES OF TERRORISM. LOCAL AND INTERNATIONAL PRESS ORGANIZATIONS PROTESTED THE DETENTION, AND HE WAS RELEASED BY A JUDGE ON OCTOBER 1. IN NOVEMBER THE LEGISLATURE PASSED NEW LEGISLATION WHICH PROHIBITS "APOLOGIES FOR AND ENCOURAGEMENT OF" TERRORISM, AND ARCE WAS REARRESTED ON DECEMBER 10 UNDER THIS ACT FOR MATERIALS INCLUDED IN A PAMPHLET THAT HE WROTE. HE REMAINED IN DETENTION AT YEAR'S LIMITED OFFICIAL USE

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END. WHILE THE NEW TERRORISM LAW HAS BEEN APPLAUDED BY SOME JOURNALISTS AS NECESSARY, OTHERS FEAR IT WILL HAVE A CHILLING EFFECT ON PRESS FREEDOM.

JOURNALISTS ARE ALSO SOMETIMES THE VICTIMS OF VIOLENCE AND THREATS. ONE JOURNALIST WAS THREATENED, ALLEGEDLY BY APRA ACTIVISTS. A DEAD DOG BEARING A THREATENING MESSAGE FROM THE RODRIGO FRANCO DEMOCRATIC FRONT WAS HUNG OUTSIDE THE HOME OF AN EL DIARIO REPORTER IN AYACUCHO. A JOURNALIST RECEIVED THREATS AFTER REPORTING ALLEGED LINKS BETWEEN SENDERO LUMINOSO AND NARCOTICS TRAFFICKERS IN THE UPPER HUALLAGA VALLEY. GOVERNMENT SECURITY FORCES ARE WIDELY BELIEVED TO BE RESPONSIBLE FOR THE NOVEMBER KILLING OF A MAGAZINE REPORTER WORKING INSIDE THE AYACUCHO EMERGENCY ZONE.

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

THESE RIGHTS ARE EXPRESSLY PROVIDED FOR IN THE CONSTITUTION AND ARE NORMALLY RESPECTED IN PRACTICE IN AREAS NOT UNDER A STATE OF EMERGENCY. MUNICIPAL AUTHORITIES USUALLY APPROVE PERMITS FOR DEMONSTRATIONS. UNAUTHORIZED DEMONSTRATIONS ALSO OCCUR, AND, FOR THE MOST PART, THE GOVERNMENT DEALS WITH THEM IN A NONCONFRONTATIONAL MANNER. HOWEVER, AS OPPOSITION GROUPS ADOPTED MORE PROVOCATIVE TACTICS, THE GOVERNMENT OFTEN DENIED PERMITS OR BROKE UP MARCHES. POLICE RESORTED MORE OFTEN TO TEAR GAS, BUCKSHOT, AND FIRETRUCK-MOUNTED WATER CANNONS TO DISPERSE UNRULY OR THREATENING CROWDS. THERE WERE CASES WHERE OPPOSITION CONGRESSMEN WERE ROUGHED UP OR HIT WITH BUCKSHOT. ONE STUDENT WAS KILLED IN A PROTEST IN MAY FOLLOWING THE CAYARA MASSACRE. HUNDREDS OF STUDENTS WERE ARRESTED IN UNAUTHORIZED DEMONSTRATIONS IN LIMA AND AREQUIPA DURING 1988. DEMONSTRATIONS BY WORKERS AND LABOR GROUPS WERE SIMILARLY RESTRAINED BY POLICE.

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FOR A DISCUSSION OF FREEDOM OF ASSOCIATION AS IT APPLIES TO LABOR UNIONS, SEE SECTION 6.A.

C. FREEDOM OF RELIGION

ROMAN CATHOLICISM PREDOMINATES IN PERU, AND THE CONSTITUTION

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FORMALLY RECOGNIZES THE CHURCH. THE CONSTITUTION ALSO ESTABLISHES THE SEPARATION OF CHURCH AND STATE AND ENSURES FREEDOM OF RELIGION AND CONSCIENCE. THESE RIGHTS ARE RESPECTED IN PRACTICE. MEMBERS OF MINORITY RELIGIONS ENCOUNTER NO GOVERNMENT INTERFERENCE IN PRACTICING THEIR FAITH OR IN EXEMPTING THEIR CHILDREN FROM RELIGIOUS INSTRUCTION IN PUBLIC SCHOOLS. MISSIONARY ORGANIZATIONS OPERATE FREELY IN THE COUNTRY WITH THE COOPERATION OF GOVERNMENT MINISTRIES.

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

THE CONSTITUTION PROVIDES FOR THE RIGHT OF FREE MOVEMENT, AND THERE ARE NO POLITICAL OR LEGAL CONSTRAINTS ON FOREIGN TRAVEL OR EMIGRATION. SINCE 1985 NEARLY 120,000 PERUVIANS HAVE EMIGRATED TO OTHER NATIONS. FREEDOM OF MOVEMENT IS SUSPENDED IN THOSE AREAS UNDER A STATE OF EMERGENCY. PERU IS A PARTY TO THE 1967 UNITED NATIONS PROTOCOL ON THE STATUS OF REFUGEES. PERSONS FLEEING TURMOIL IN OTHER COUNTRIES TRADITIONALLY HAVE BEEN ENCOURAGED TO RETURN EVENTUALLY TO THEIR COUNTRY OF ORIGIN OR TO EMIGRATE TO THIRD COUNTRIES, BUT HAVE NOT BEEN FORCED TO DO SO. INVOLUNTARY REPATRIATION OCCURS ONLY IN CASES OF PERSONS ACCUSED OF NONPOLITICAL CRIMES.

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

PERU IS A DEMOCRACY GOVERNED BY A FREELY ELECTED PRESIDENT AND CONGRESS. THE POLITICAL PROCESS IS OPEN AND ELECTIONS ARE LIMITED OFFICIAL USE

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VIGOROUSLY CONTESTED BY PARTIES RANGING FROM CONSERVATIVE TO MARXIST. SENDERO LUMINOSO PERSISTENTLY SEEKS TO DENY CITIZENS THEIR POLITICAL RIGHTS--PARTICULARLY IN REMOTE MOUNTAIN AREAS--BY KILLING CANDIDATES AND ELECTED OFFICIALS AND THREATENING VOTERS. SENDERO LEADERS HAVE PUBLICLY STATED THEIR INTENTION TO DISRUPT THE 1990 ELECTIONS. SUFFRAGE IS UNIVERSAL FOR PERSONS OVER 18 YEARS OF AGE, EXCEPT FOR MEMBERS OF THE MILITARY. BALLOTING IS SECRET. THE JULY 1985 INAUGURATION OF PRESIDENT GARCIA MARKED THE FIRST TRANSFER OF POWER BETWEEN DEMOCRATICALLY ELECTED GOVERNMENTS IN 40 YEARS.

THERE ARE 3 WOMEN IN THE 60-MEMBER SENATE AND 10 IN THE 180-MEMBER CHAMBER OF DEPUTIES. THERE IS ONE WOMAN IN THE CABINET.

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

AMERICAS WATCH AND THE WASHINGTON OFFICE ON LATIN AMERICA SENT REPRESENTATIVES TO PERU DURING 1988. OUTSIDE OF THE EMERGENCY ZONES, THE GOVERNMENT DID NOT IMPEDE OR RESTRICT THESE GROUPS' ACCESS. THE AMERICAS WATCH REPRESENTATIVE WAS NOT PERMITTED TO VISIT THE COUNTRYSIDE OUTSIDE AYACUCHO, AND A MILITARY COMMANDER REQUIRED HIM TO CURTAIL A VISIT TO AYACUCHO AND RETURN TO LIMA. ACCESS BY THE ICRC TO THE EMERGENCY ZONES AND TO SECURITY DETAINEES IN LIMA HAS ALSO BEEN RESTRICTED. LOCAL HUMAN RIGHTS ORGANIZATIONS COMPLAIN THAT THEY ARE LIMITED BY THE MILITARY IN THEIR EFFORTS TO INVESTIGATE HUMAN RIGHTS ABUSES IN THE EMERGENCY ZONES. MOST LOCAL HUMAN RIGHTS GROUPS STATE THAT THEY ARE NOT HARASSED OR THREATENED BY THE GOVERNMENT, BUT THAT THEIR REQUESTS TO THE GOVERNMENT FOR INFORMATION ARE USUALLY IGNORED.

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SEVERAL PRIVATE HUMAN RIGHTS ORGANIZATIONS CONSTITUTE THE INDEPENDENT NATIONAL COORDINATOR FOR HUMAN RIGHTS. THESE INCLUDE THE ASSOCIATION FOR HUMAN RIGHTS, THE CATHOLIC CHURCH'S EPISCOPAL COMMISSION FOR SOCIAL ACTION, THE NATIONAL HUMAN RIGHTS COMMISSION, AND THE INSTITUTE FOR LEGAL DEFENSE. SMALLER GROUPS WORK IN THE DEPARTMENTAL CAPITALS AND OTHER CITIES. THESE GROUPS ARE GENERALLY CREDIBLE OBSERVERS, BUT CONCENTRATE ON GOVERNMENT ACTIONS TO THE EXCLUSION OF TERRORIST ABUSES. LIMA IS ALSO THE HEADQUARTERS OF THE ANDEAN COMMISSION OF JURISTS.

THE GOVERNMENT COMPLAINS THAT BOTH LOCAL AND INTERNATIONAL HUMAN RIGHTS GROUPS DISTORT OR EXAGGERATE HUMAN RIGHTS PROBLEMS. IN ITS 1988 REPORT, THE PERUVIAN MULTIPARTY SENATE COMMISSION ON VIOLENCE AND PACIFICATION CLAIMED THAT THE PROPAGANDA EFFORT OF PRO-SENDERO AGENTS IN THE U.S. AND EUROPE IS PARTLY TO BLAME FOR WHAT IT TERMED A ONE-SIDED PICTURE.

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

THE CONSTITUTION GRANTS WOMEN EQUALITY WITH MEN, AND LAWS ON MARRIAGE AND DIVORCE DO NOT DISCRIMINATE AGAINST WOMEN. NEVERTHELESS, TRADITION IMPEDES THE ACCESS OF WOMEN TO LEADERSHIP ROLES IN MAJOR SOCIAL AND POLITICAL INSTITUTIONS.

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WOMEN REPRESENT 26 PERCENT OF THE LABOR FORCE. IN 1984, 61.9 PERCENT OF THE FEMALE WORK FORCE WAS EMPLOYED IN COMMERCE AND SERVICES, 16.6 IN THE INDUSTRIAL SECTOR, AND THE 19.5 IN OTHER OCCUPATIONS, MAINLY AS DOMESTICS. THE AVERAGE WAGE OF MALE WORKERS IS DOUBLE THAT OF FEMALES.

THE RURAL AND INDIGENOUS POPULATION AND PERU'S SMALL BLACK COMMUNITY FACE SITUATIONS SIMILAR TO THOSE OF WOMEN. THE FORMER GROUP TRADITIONALLY HAS LACKED ACCESS TO PUBLIC SERVICES. PERU IS A CLASSIC CASE OF DIFFERENTIAL DEVELOPMENT,
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WITH PUBLIC INVESTMENT TRADITIONALLY FOCUSED ON THE COAST, DRAWING MIGRANTS TO THE CITIES, ESPECIALLY LIMA. RECOGNIZING THIS FACT, THE GOVERNMENT HAS INCREASED THE FLOW OF RESOURCES AND SERVICES TO POOR, LARGELY INDIAN, RURAL AREAS. DEVELOPMENT EFFORTS, HOWEVER, HAVE BEEN IMPEDED BY THE DIFFICULTY AND COST OF PROVIDING SERVICES TO AREAS OUT OF THE MAINSTREAM OF HISPANIC CULTURE, AND BY THE CONTINUED DISRUPTION OF THESE EFFORTS BY SENDERO. AS A RESULT OF CURRENT PROBLEMS, AS WELL AS HISTORIC PREJUDICE, THE ECONOMIC AND SOCIAL NEEDS OF PERUVIANS OF EUROPEAN ANCESTRY ARE MORE LIKELY TO BE MET THAN THOSE OF MIXED OR PURE INDIAN HERITAGE.

SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

THE CONSTITUTION PROVIDES FOR THE RIGHT OF WORKERS TO FREELY ASSOCIATE AND FORM LABOR UNIONS WITHOUT PREVIOUS AUTHORIZATION. IN PRACTICE, HOWEVER, THERE ARE LEGAL RESTRICTIONS ON THE RIGHT TO ORGANIZE (SEE BELOW), AND A REGISTRATION REQUIREMENT WITH THE MINISTRY OF LABOR IN ORDER FOR THE UNION TO BECOME LEGAL AND CAPABLE OF PERFORMING ITS FUNCTIONS. SUSPENSION OR DISSOLUTION OF LABOR UNIONS IS FORBIDDEN BY THE CONSTITUTION, BUT IT CAN BE DONE LEGALLY THROUGH THE CIVIL COURT SYSTEM AT THE REQUEST OF THE UNION ITSELF, OR BY CANCELLATION OF THE UNION'S REGISTRATION BY THE MINISTRY. UNIONS MAY FORM INDUSTRY-WIDE FEDERATIONS WHICH CAN, IN TURN, FORM CONFEDERATIONS, ALL OF WHICH CAN BE AFFILIATED WITH INTERNATIONAL LABOR ORGANIZATIONS. PERU IS AN ACTIVE MEMBER OF THE INTERNATIONAL LABOR ORGANIZATION. PRIVATE AND PUBLIC SECTOR UNIONS OF WORKERS PERFORMING THE SAME TYPE OF WORK CANNOT JOIN TOGETHER AT ANY LEVEL.

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THE CONSTITUTION PROVIDES FOR THE RIGHT TO STRIKE "ACCORDING TO LAW." THERE IS NO STRIKE LAW, HOWEVER, EVEN THOUGH CONGRESS HAS CONSIDERED VARIOUS IMPLEMENTING BILLS SINCE THE CONSTITUTION WAS PROMULGATED IN 1979. BY SUPREME EXECUTIVE DECREE (WHICH DEFINES SOME STRIKE BEHAVIOR IN THE ABSENCE OF A FORMAL LAW), WORKERS IN THE PRIVATE SECTOR MUST GIVE 72-HOUR NOTICE TO THE EMPLOYER AND THE MINISTRY OF LABOR BEFORE GOING ON STRIKE. WHEN DIRECT NEGOTIATIONS BETWEEN WORKERS AND EMPLOYERS BREAK DOWN, THE GOVERNMENT INTERVENES AND CONSTITUTES A TRIPARTITE (GOVERNMENT, MANAGEMENT, LABOR) BOARD TO REVIEW THE SITUATION. IF NO AGREEMENT IS REACHED, THE GOVERNMENT THEN WEIGHS THE OVERALL ECONOMIC IMPLICATIONS OF THE EMPLOYER'S AND THE WORKERS' POSITIONS AND MAKES A DECISION. THE DECISION CAN BE APPEALED IN THE CIVIL COURT SYSTEM. THE GOVERNMENT WILL THEN MAKE A FINAL OFFER WHICH, IF REJECTED, WILL OPEN THE WAY FOR DECLARING THE STRIKE ILLEGAL. A GOVERNMENT DETERMINATION THAT THE STRIKE IS ILLEGAL CAN LEAD TO THE DISMISSAL OF WORKERS OR UNION LEADERS AND PERMITS EMPLOYERS TO HIRE STRIKEBREAKERS LEGALLY. DESPITE THESE RESTRICTIONS, STRIKES, OFTEN WILDCAT IN NATURE, DO TAKE PLACE. THE MINERS' STRIKE OF LATE 1988 GAVE RISE TO NUMEROUS COMPLEX LEGAL BATTLES OVER ITS LEGALITY, NONE OF WHICH PREVENTED THE MINERS FROM STRIKING. THERE ARE NO NORMS REGULATING STRIKES IN THE PUBLIC SECTOR AND ALL SUCH STRIKES ARE THEREFORE OPEN TO LEGAL CHALLENGE.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

GOVERNMENT RULES STIPULATE THAT, IN THE PRIVATE SECTOR, UNIONS CAN BE FORMED ONLY IN ENTERPRISES WITH 20 OR MORE WORKERS, AND ONLY IF MORE THAN 50 PERCENT OF THE WORKERS REQUEST IT. ONLY ONE UNION IS ALLOWED FOR EACH ENTERPRISE OR PLACE OF WORK AND BY CATEGORY OF WORKER, BLUE- OR WHITE-COLLAR. IN THE PUBLIC SECTOR, 20 PERCENT OF THE WORKERS CAN REQUEST A UNION, THUS ALLOWING UP TO FIVE UNIONS TO REPRESENT THE SAME GROUP OF WORKERS. AMONG THE RESTRICTIONS APPLYING TO PUBLIC SECTOR

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UNIONS IS A 1-YEAR TERM, WITHOUT REELECTION, TO THE

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LEADERSHIP. COLLECTIVE BARGAINING IS PROVIDED FOR UNDER THE CONSTITUTION, BUT THERE ARE RESTRICTIONS ON WHAT CAN BE BARGAINED. IN THE PUBLIC SECTOR, FOR EXAMPLE, ONLY WORKING CONDITIONS CAN BE NEGOTIATED, AND THEN ONLY AS LONG AS THE CHANGES DO NOT INVOLVE EXPENSES GREATER THAN THE FUNDS ALREADY BUDGETED. IN THE PRIVATE SECTOR, COLLECTIVE BARGAINING CAN COVER BOTH WORKING CONDITIONS AND PAY. LABOR LAWS AND REGULATIONS ARE APPLIED UNIFORMLY THROUGHOUT THE COUNTRY.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

THE CONSTITUTION PROHIBITS COMPULSORY LABOR, AND THIS IS RESPECTED IN PRACTICE. THERE HAVE BEEN A FEW REPORTS OF ESCAPEES FROM FORCED LABOR CAMPS RUN BY SENDERO LUMINOSO IN THE JUNGLE. PEASANTS ARE RECRUITED FORCIBLY TO TEND THE FIELDS AND JOIN THE SENDERO RANKS. AFTER A RECENT INCIDENT IN ATALAYA, CUSCO DEPARTMENT, AN OFFICIAL DELEGATION FROM THE LABOR MINISTRY WENT TO INVESTIGATE AND REPORTED THAT THE ENSLAVED INDIANS HAD GONE BACK INTO THE JUNGLE.

D. MINIMUM AGE FOR EMPLOYMENT OF CHILDREN

THE LAW PROHIBITS THE EMPLOYMENT OF CHILDREN UNDER 14 YEARS OF AGE. IN THE FORMAL SECTOR OF THE ECONOMY, IT ALLOWS FOR THE EMPLOYMENT OF OLDER CHILDREN IN SOME JOBS, FOR A LIMITED PERIOD OF TIME AND WORKING A CURTAILED WORKWEEK AT FULL PAY. ACCORDING TO A RECENT PERUVIAN SENATE REPORT, 1.1 MILLION CHILDREN 6 TO 14 YEARS OF AGE WORK. UNOFFICIAL SOURCES ESTIMATE THAT ABOUT HALF A MILLION CHILDREN WORK IN THE LIMA AREA ALONE. OF THE RELATIVELY FEW ACCUSATIONS OF LABOR EXPLOITATION OF CHILDREN, OFFICIAL AUTHORITIES VERIFIED 38 IN 1988. A RECENT MONTH-LONG CAMPAIGN UNDERTAKEN BY A LEADING

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LIMA NEWSPAPER HAS INCREASED PUBLIC AWARENESS OF ABUSES IN THE EMPLOYMENT OF CHILDREN.

E. ACCEPTABLE CONDITIONS OF WORK

WORKERS HAVE AN 8-HOUR DAY AND AN OFFICIAL 48-HOUR WEEK FOR MEN, AND 45 FOR WOMEN. RETIREMENT AGE IS 60 FOR MEN AND 55 FOR WOMEN. THERE ARE GOVERNMENT STANDARDS FOR HEALTH AND SAFETY BY INDUSTRY, BUT THESE ARE RARELY ENFORCED EITHER BY THE EMPLOYER OR THE GOVERNMENT (WHICH HAS NO INSPECTORS). IN NEGOTIATING NEW CONTRACTS, PUBLIC AND PRIVATE SECTOR WORKERS

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CAN BARGAIN FOR ADDITIONAL PAY BECAUSE OF HAZARDOUS WORKING CONDITIONS. MANY EMPLOYERS WAIT FOR A DEMAND FROM THE WORKERS TO IMPROVE CONDITIONS. ACCIDENTS ARE COMMON, AND USUALLY THERE IS NO EMPHASIS ON PREVENTION, ALTHOUGH ONCE THEY HAPPEN, EMPLOYERS NORMALLY MAKE COMPENSATION.

ALL WORKERS ARE ENTITLED TO 30 DAYS' PAID VACATION. THOSE IN THE PRIVATE SECTOR HAVE TO WORK A MINIMUM OF 260 DAYS (EXCLUDING 30 DAYS' SICK LEAVE) OR FORFEIT THEIR VACATION. THIS REGULATION DOES NOT APPLY TO THE PUBLIC SECTOR. THE MINIMUM WAGE WAS INCREASED RECENTLY BY THE GOVERNMENT, BUT IT STILL LAGS BEHIND INFLATION. AT 50 PER MONTH (AT THE OFFICIAL EXCHANGE RATE), IT IS NOT SUFFICIENT TO PROVIDE A DECENT STANDARD OF LIVING FOR A WORKER AND HIS FAMILY. HOWEVER, MANY PERUVIANS ARE PAID MORE THAN THE MINIMUM WAGE AND MANY OTHERS SUPPLEMENT THEIR INCOME THROUGH MULTIPLE JOBS AND/OR SUBSISTANCE FARMING. END TEXT.
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