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FM AMEMBASSY LIMA
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E.O. 12356: DECL: OADR
TAGS: PHUM, SNAR, MASS, PREL, PE
SUBJECT: NEW PRESIDENTIAL DIRECTIVE
ON HUMAN RIGHTS

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REF: LIMA 13003
1. (U) SUMMARY: THE GOP'S PRESIDENTIAL
DIRECTIVE ON HUMAN RIGHTS REVEALED THE FUJIMORI
ADMINISTRATION'S NEW HUMAN RIGHTS PROGRAM. THIS
INCLUDED, INTER ALIA: THE CREATION OF A
PRESIDENTIAL OFFICE FOR HUMAN RIGHTS; SPECIAL

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TRIBUNALS FOR TERRORISM; AND A CONTROL BODY TO COORDINATE ANTI-SUBVERSION EFFORTS. THE PROGRAM ALSO ENVISAGED REQUESTS FOR INTERNATIONAL ASSISTANCE IN PERU'S HUMAN RIGHTS SITUATION, SUCH AS ESTABLISHING A "NATIONAL HUMAN RIGHTS EDUCATION PROGRAM" WITH UN HELP. IT OMITTED ANY MENTION OF A "NATIONAL REGISTER OF DETAINEES" THAT HAD BEEN ANTICIPATED EARLIER. END SUMMARY.

2. (U) THE GOP-OWNED OFFICIAL GAZETTE, EL PERUANO, ON SEPTEMBER 13 CARRIED DETAILS OF THE NEW PRESIDENTIAL DIRECTIVE ON HUMAN RIGHTS (FAXED TO ARA/AND). THIS NEW INITIATIVE, WHICH PRESIDENT ALBERTO FUJIMORI REPORTEDLY CARRIED TO WASHINGTON DURING HIS CURRENT VISIT, LAYED OUT THE NEW POLICY FRAMEWORK FOR THE FUJIMORI ADMINISTRATION'S HIGH PROFILE HUMAN RIGHTS DRIVE. THE DIRECTIVE, APPROVED BY THE COUNCIL OF MINISTERS ON SEPTEMBER 9 AND SIGNED BY THE PRIME MINISTER, PROPOSED A WIDE RANGING SERIES OF INSTITUTIONAL REFORMS AND A NATIONAL HUMAN RIGHTS EDUCATION STRATEGY SUPPORTED BY INTERNATIONAL ORGANIZATIONS.

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3. (U) THE DOCUMENT BEGAN WITH A LENGTHY INTRODUCTION OF THE GOP'S VIEW OF PERU'S HUMAN RIGHTS SITUATION. IT CITED THE UNPRECEDENTED HIGH COST TO PERUVIAN SOCIETY OF THE FIGHT AGAINST THE "CRUEL" AND "IRRATIONAL" SENDERO LUMINOSO (SL): 20,000 DEAD SINCE 1980; 5,000 DISAPPEARANCES ("DESAPARECIDOS") SINCE 1983; 20 BILLION USD "ALMOST 25 PERCENT MORE THAN THE TOTAL OF PERU'S PUBLIC FOREIGN DEBT." WHILE ADMITTING THAT WAGING WAR AGAINST SL DOES NOT EXCUSE HUMAN RIGHTS VIOLATIONS, THE DOCUMENT ATTEMPTS TO DISTANCE ITSELF FROM PAST GOP HUMAN RIGHTS VIOLATIONS BY DATING FUJIMORI'S SINCERE COMMITMENT TO HUMAN RIGHTS TO A 1990 CAMPAIGN PLANK, THE THEN-PROPOSED "NATIONAL PROGRAM OF PACIFICATION THROUGH DEVELOPMENT."

GOP ADVANCES SO FAR

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4. (U) THIS "PACIFICATION THROUGH DEVELOPMENT" PROGRAM GUIDED THE GOP TO "NEW" THINKING IN ITS APPROACH TO FIGHTING DRUGS AND ALTERNATIVE DEVELOPMENT. SPECIFICALLY THE NEW GOP POLICY:

-- TREATED THE COCA-GROWING CAMPESENO NOT AS A CRIMINAL, BUT AS VICTIM OF THE DRUG TRADE AND AN INTEGRAL INTERLOCUTOR IN THE ALTERNATIVE DEVELOPMENT PROGRAM.

-- RECOGNIZED THE CAMPESENO'S RIGHT TO SECURE
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PROPERTY OWNERSHIP.

-- PROPOSED REDUCING BUREAUCRATIC RED TAPE AND OTHER IMPEDIMENTS TO LICIT ECONOMIC ENDEAVORS.

-- SOUGHT GREATER AND MORE DIRECT PARTICIPATION BY THE CAMPESENO IN DECISION-MAKING ABOUT DEVELOPMENT AND POLICIES AFFECTING THEM.

5. (U) THE AGREEMENT BETWEEN THE US AND PERU ON DRUG CONTROL AND ALTERNATIVE DEVELOPMENT WAS PRAISED FOR ADDRESSING THE NEED TO PROVIDE

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E.O. 12356: DECL: OADR
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ALTERNATIVE DEVELOPMENT NOT ONLY TO COCA-GROWING

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AREAS BUT ALSO TO THOSE AREAS FROM WHICH
COCALEROS MIGRATE. THIS DEVELOPMENT INCLUDED
CREATING EFFECTIVE JUDICIAL AND ADMINISTRATIVE
SYSTEMS AND THE DIRECT INVOLVEMENT OF THE
AFFECTED LOCAL POPULATION.

6. (U) OTHER POSITIVE GOP ACTIONS ON HUMAN
RIGHTS, ASIDE FROM THOSE DEALING WITH DRUG

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CONTROL AND ALTERNATIVE DEVELOPMENT, WERE GIVEN:

-- A GENERAL PARDON WAS PROMULGATED TO ALLOW THE RELEASE OF UNTRIED MINOR OFFENDERS ALREADY DETAINED FOR PERIODS GREATER THAN THE SPECIFIED MINIMUM SENTENCE.

-- "DISAPPEARANCE" WAS MADE A SPECIFIC PUNISHABLE OFFENSE IN THE NEW PENAL CODE.

-- CIVIL PROSECUTORS WERE GIVEN LEGAL ACCESS TO DETENTION CENTERS AND POLICE AND MILITARY FACILITIES TO INVESTIGATE DETENTIONS AND REPORTS OF DISAPPEARANCES.

GOP ADVANCES TO COME

7. (U) ADMITTING THAT THE CURRENT HUMAN RIGHTS SITUATION IS NOT GOOD, THE DOCUMENT WAS PROPOSED A GOP ACTION PLAN TO AMELIORATE THIS PROBLEM WITH:

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A. PROPOSED INSTITUTIONAL CHANGES:

-- CREATE SPECIAL TRIBUNALS FOR TERRORISM, IN COORDINATION WITH JUDICIAL AUTHORITIES. THE JUDGES AND PROSECUTORS FOR THESE TRIBUNALS ARE TO BE CAREFULLY SELECTED, TRAINED, AND GIVEN SPECIAL INCENTIVES.

-- CREATE A CONTROLLING BODY TO COORDINATE GOVERNMENT-WIDE, ANTI-SUBVERSION EFFORTS.

-- CREATE A POLICE "SPECIAL INVESTIGATIONS UNIT" TO HELP JUDGES AND PROSECUTORS WITH INVESTIGATIONS, WITNESS PROTECTION, AND SAFEGUARD EVIDENCE.

-- CREATE A NEW PENITENTIARY SYSTEM FOR HOLDING SUBVERSIVES, WITH A NEW PRISON INFRASTRUCTURE MANNED BY A SPECIALLY TRAINED

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FORCE.

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-- CREATE A COMMISSION TO STUDY THE DEVOLUTION
OF POLICE FUNCTIONS TO REGIONAL OR MUNICIPAL
LEVELS, GIVING LOCAL AUTHORITIES DIRECT
CONTROL OVER PEACE KEEPING MATTERS.
B) PROPOSED INTERNATIONAL COOPERATION

-- FORMALLY REQUEST ASSISTANCE FROM THE UNITED
NATIONS IN DEVELOPING, IMPLEMENTING AND
EVALUATING A "NATIONAL HUMAN RIGHTS
EDUCATION PROGRAM." THIS WILL INCLUDE
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EDUCATING THE POLICE AND MILITARY.

-- FORMALLY INVITE THE ORGANIZATION OF AMERICAN
STATES' HUMAN RIGHTS COMMISSION TO VISIT
PERU AND GIVE ITS RECOMMENDATIONS.

-- THE GDP "COMMITTS ITSELF" TO ADDRESS
QUESTIONS BY THE INTER-AMERICAN COMMISSION'S
EXECUTIVE SECRETARIAT ON DISAPPEARANCES,
EXTRAJUDICIAL EXECUTIONS AND TORTURE.

-- THE FOREIGN MINISTRY IS TASKED WITH HANDLING
HUMAN RI GHTS CASES PRESENTED BY

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INTERNATIONAL HUMAN RIGHTS GROUPS.
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-- CONSULT WITH THE INTER-AMERICAN HUMAN RIGHTS
COURT REGARDING PERU'S APPLICATION OF
INTERNATIONAL HUMANITARIAN LAW IN THE
COUNTERSUBVERSION STRUGGLE.

C) PROPOSED NATIONAL EDUCATION

-- A PRESIDENTIAL DIRECTIVE REITERATED THE DUTY

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OF ALL MILITARY AND POLICE MEMBERS TO RESPECT HUMAN RIGHTS, STRESSING THAT ANYONE VIOLATING THOSE RIGHTS WOULD BE "SEVERELY PUNISHED."

-- CREATE A PRESIDENTIAL OFFICE FOR HUMAN RIGHTS TO IMPLEMENT AND SUPERVISE PERU'S NATIONAL HUMAN RIGHTS POLICY. THE OFFICE, REPORTING DIRECTLY TO THE PRESIDENT, WILL RECEIVE AND ACT ON COMPLAINTS OF HUMAN RIGHTS VIOLATIONS; HAVE BRANCH OFFICES AROUND THE COUNTRY; AND ENJOY DIRECT ACCESS TO ALL GOVERNMENT BODIES.

COMMENT

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18. (C) OVERALL, THIS IS AN AMBITIOUS DOCUMENT THAT ADDRESSES SOME OF THE FUNDAMENTAL CONCERNS BOTH WE AND HUMAN RIGHTS ORGANIZATIONS HAVE RAISED WITH THE GOP. IT OMITTS AN IMPORTANT PROPOSAL CONTAINED IN THE DRAFT COPY (FAXED TO ~~CONFIDENTIAL~~)

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ARA/AND AND REPORTED REFTEL), NAMELY ANY MENTION OF A "NATIONAL REGISTER OF DETAINEES." THE CREATION OF SUCH A REGISTRY SHOULD NOT BE TOO DIFFICULT, AND THE GOP MAY BE HOLDING THIS IN RESERVE. ALSO NOT MENTIONED IS WHERE FUNDING FOR ANY OF THIS IS TO BE FOUND. BUT IT PROVIDES US A GOP-GENERATED PLAN WHICH WE CAN USE TO TRACK DEVELOPMENT OF THEIR HUMAN RIGHTS EFFORTS. QUANTON

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