

UNCLASSIFIED

C17
R

DOCUMENT ID: 24225907
INQNO: DOC21D 00203467
DOCNO: TEL 025544 92
PRODUCER: WASHDC
SOURCE: STATE
DOCTYPE: OUT
DOR: 19920127
TOR: 202515
DOCPREC: O
ORIGDATE: 199201280018
MHFNO: 92 7026929
DOCCLASS: [REDACTED]

Dept of State, RPS/IPS, Margaret P. Grafeld, Dir.
(X) Release () Excise () Deny () Declassify
Date 5/22/02 Exemption _____

HEADER
OO RUEAIIB
ZNY CCCCC ZOC STATE ZZH
MPG5544
OO RUEHC
DE RUEHC #5544 0280025
ZNY CCCCC ZZH
O 280018Z JAN 92
FM SECSTATE WASHDC
TO AMEMBASSY LIMA IMMEDIATE 0000
BT

CONTROLS
[REDACTED] L STATE 025544
E.O. 12356: DECL: OADR

TEXT
TAGS: PHUM PE
SUBJECT: HUMAN RIGHTS REPORT
REF: (A) 92 LIMA 01167, (B) 92 LIMA 870, (C) 92 STATE 421078,
(D) 1/27 HALL/CROOM TELCON, (E) 92 STATE 21662

1. [REDACTED] - ENTIRE TEXT.
2. FOLLOWING IN PARAGRAPH 3 IS THE REVISED FINAL DRAFT OF THE PERU HUMAN RIGHTS REPORT. THIS VERSION INCORPORATES POST'S SUGGESTIONS SET FORTH IN REFS A AND D. IT HAS ALSO BEEN REVIEWED BY HA A/S SCHIFTER, AND INCLUDES HIS MODIFICATIONS. WE WOULD APPRECIATE YOUR FINAL REVIEW OF THIS REPORT. IF POST HAS ADDITIONAL COMMENTS, PLEASE TRANSMIT BY NIACT IMMEDIATE TO THE DEPARTMENT NO LATER THAN NOON JANUARY 28, SLUGGED FROM AMBASSADOR QUAINTON TO HA A/S SCHIFTER. AGAIN, WE THANK YOU FOR YOUR FINE WORK AND COOPERATION IN FINALIZING THIS REPORT.

UNCLASSIFIED

[REDACTED]
UNCLASSIFIED

3. BEGIN TEXT.

PERU

PERU HAS A FREELY-ELECTED DEMOCRATIC GOVERNMENT, WITH AN EXECUTIVE BRANCH, A BICAMERAL LEGISLATURE, AND A JUDICIARY. ALBERTO FUJIMORI, LEADER OF THE REFORM PARTY CAMBIO 90, WAS INAUGURATED PRESIDENT IN JULY 1990, SUCCEEDING ALAN GARCIA PEREZ OF THE AMERICAN POPULAR REVOLUTIONARY ALLIANCE (APRA). PUBLIC SECURITY RESPONSIBILITIES ARE SHARED BY THE POLICE AND THE MILITARY. THE INTERIOR MINISTRY AND ITS POLICE SERVICES HAVE THE PRIMARY COUNTER-TERRORIST ROLE IN THE CAPITAL CITY OF LIMA AND IN THE 70 PERCENT OF THE NATIONAL TERRITORY NOT UNDER A STATE OF EMERGENCY. THE MILITARY LEADS THE EFFORT TO COMBAT SUBVERSION IN THE EMERGENCY ZONES. AT YEAR'S END, 48 PROVINCES AND PARTS OF 11 OTHERS WERE UNDER A STATE OF EMERGENCY. A STATE OF EMERGENCY DESIGNATION PLACES ALL EXECUTIVE BRANCH AUTHORITY IN THE HANDS OF THE LOCAL MILITARY COMMANDER, SUSPENDS RESTRICTIONS ON ARBITRARY DETENTION AND THE REQUIREMENT FOR SEARCH WARRANTS, AND RESTRICTS THE RIGHTS OF MOVEMENT AND ASSEMBLY. THE NUMBER OF PROVINCES DECLARED IN EMERGENCY FOR AT LEAST PART OF THE YEAR DECREASED IN 1991, THE FIRST REDUCTION SINCE THE INSURGENCY BEGAN IN 1980. AN ESTIMATED 45 PERCENT OF PERU'S POPULATION OF 22 MILLION, INCLUDING THOSE IN THE CAPITAL, LIMA, LIVED UNDER A STATE OF EMERGENCY DURING 1991. IN LIMA THE POLICE, NOT THE MILITARY, TOOK THE LEAD IN COMBATTING THE INSURGENCY. THE POLICE AND THE MILITARY IN THE EMERGENCY ZONES ARE UNDER THE AUTHORITY OF THE EMERGENCY ZONE COMMANDER, NOT CIVILIAN AUTHORITIES. PERU HAS A MIXED ECONOMY THAT COMBINES ELEMENTS OF DOMESTIC

UNCLASSIFIED

UNCLASSIFIED

MARKET CAPITALISM WITH STATE OWNERSHIP OF MAJOR INDUSTRIES. PRESIDENT FUJIMORI'S ADMINISTRATION HAS PURSUED A RIGOROUS ECONOMIC STABILIZATION AND STRUCTURAL ADJUSTMENT PROGRAM WITH SEVERE FISCAL AUSTERITY AND TIGHT MONETARY POLICY. IT HAS ALSO INSTITUTED A NUMBER OF MARKET-ORIENTED REFORMS AND HAS BEGUN TO PRIVATIZATE STATE-OWNED FIRMS. ALTHOUGH THE PROGRAM HAS REDUCED INFLATION AND IS EXPECTED TO PRODUCE LONG-TERM BENEFITS, THE IMMEDIATE COST HAS BEEN AN EVEN DEEPER RECESSION AND SOCIAL HARDSHIP.

THE CHIEF CAUSES OF HUMAN RIGHTS VIOLATIONS IN PERU REMAIN THE TERRORIST ACTIVITIES OF THE SENDERO LUMINOSO (SHINING PATH) MAOIST GUERRILLAS AND, SECONDARILY, THE GOVERNMENT'S DIFFICULTY IN MOUNTING A DISCIPLINED RESPONSE. ACCORDING TO THE PERUVIAN CONGRESS' COMMISSION ON PACIFICATION, CHAIRED BY SENATOR ENRIQUES BERNALES, 3,180 PEOPLE, INCLUDING COMBATANTS AND CIVILIANS, WERE KILLED IN OVERALL TERRORIST-RELATED VIOLENCE IN 1991, AN EIGHT PERCENT DECREASE FROM 1990'S ALL TIME HIGH. IN THE CATEGORY OF DEATHS OUTSIDE OF COMBAT, PERUVIAN HUMAN RIGHTS OBSERVERS HAVE NOTED THAT SENDERO IS RESPONSIBLE FOR THE MAJORITY OF ASSASSINATIONS/EXECUTIONS OF CIVILIANS THROUGHOUT THE COUNTRY; IN 1991, SENDERO COMMITTED 85 PERCENT AND THE SECURITY FORCES 10 PERCENT OF THE POLITICAL AND OTHER EXTRAJUDICIAL KILLINGS IN WHICH THE PERPETRATORS WERE IDENTIFIED. SENDERO REGULARLY ASSASSINATES PERSONS PERCEIVED TO BE OPPONENTS OR MERELY UNCOOPERATIVE, FROM GOVERNMENT LEADERS AND OTHER OFFICIALS TO RELIGIOUS WORKERS AND PEASANTS. IN 1991 SENDERO AND THE PRO-CUBAN TERRORIST GROUP TUPAC AMARU REVOLUTIONARY MOVEMENT (MRTA) BOTH CONSOLIDATED THEIR CONTROL

UNCLASSIFIED

UNCLASSIFIED

OVER PARTS OF PERU'S MAJOR COCA-GROWING REGION, THE UPPER HUALLAGA VALLEY (UHV), AND SENDERO INCREASED ITS ACTIVITY IN THE LARGE SLUM AREAS SURROUNDING LIMA AND OTHER MAJOR URBAN CENTERS.

THERE CONTINUED TO BE CREDIBLE REPORTS OF SUMMARY EXECUTIONS, DISAPPEARANCES, ARBITRARY DETENTIONS, TORTURE AND RAPE BY THE MILITARY AND POLICE. MOST OF THESE ABUSES OCCURRED IN THE EMERGENCY ZONES. HOWEVER, THE COUNTRY'S LEADERSHIP UNDERTOOK A CONCERTED EFFORT TO IMPROVE RESPECT FOR HUMAN RIGHTS IN 1991. FIGURES FROM THE NATIONAL COORDINATING COMMITTEE FOR HUMAN RIGHTS (COORDINADORA) AND THE PUBLIC MINISTRY (AN AUTONOMOUS OFFICE OF THE ATTORNEY GENERAL) SHOWED A SIGNIFICANT DECREASE IN THE NUMBER OF UNRESOLVED DISAPPEARANCES BEGINNING IN AUGUST/SEPTEMBER. LATE IN 1991, THE FUJIMORI ADMINISTRATION AUTHORIZED THE UNLIMITED ACCESS OF CIVILIAN PROSECUTING ATTORNEYS TO ALL MILITARY FACILITIES THROUGHOUT THE COUNTRY TO DETERMINE THE PRESENCE AND CONDITION OF PERSONS REPORTED TO BE DETAINED. SIMILARLY, IN SEPTEMBER THE MINISTRIES OF INTERIOR AND DEFENSE GRANTED THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) ACCESS TO ALL POLICE FACILITIES AND TO ALL MILITARY INSTALLATIONS OF UNITS WHICH CONDUCT COUNTERTERRORISM OPERATIONS, INCLUDING THOSE IN THE EMERGENCY ZONES. THE ICRC ALSO HAS REGULAR ACCESS TO LISTS OF MILITARY DETAINEES. MILITARY AND POLICE FORCES INCORPORATED FORMAL HUMAN RIGHTS COMPONENTS INTO REGULARLY SCHEDULED AND SPECIAL TRAINING COURSES; THE ICRC AND LOCAL HUMAN RIGHTS GROUPS WERE INVITED TO PARTICIPATE IN THESE COURSES. THE MILITARY AND THE POLICE

UNCLASSIFIED

~~UNCLASSIFIED~~

INVESTIGATED AND CHARGED SEVERAL OF THEIR MEMBERS WITH MURDER AND OTHER SERIOUS CRIMES IN THE SANTA BARBARA AND CALLAO MURDER CASES (SEE SECTION 1.A.). HOWEVER, THOUGH THE SECURITY FORCES CLAIM THAT THERE WERE SIGNIFICANT NUMBERS OF DISMISSALS FOR VARIOUS TYPES OF ABUSES, THE COMMENCEMENT OF CRIMINAL PROCEEDINGS AGAINST HUMAN RIGHTS VIOLATORS HAS BEEN RARE. RESPECT FOR HUMAN RIGHTS

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

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

THE COORDINADORA ESTIMATED THAT SENDERO WAS RESPONSIBLE FOR A TOTAL OF 749 POLITICAL AND OTHER EXTRA-JUDICIAL KILLINGS OF CIVILIANS IN 1991; SECURITY FORCES FOR 91; THE MRTA FOR 18; AND PARAMILITARY FORCES FOR 23. THERE WERE AN ADDITIONAL 34 KILLINGS BY UNIDENTIFIED TERRORISTS, AND 158 OTHER KILLINGS BY UNKNOWN PERPETRATORS. FOR THE FIRST TIME IN 5 YEARS, POLITICAL AND OTHER EXTRAJUDICIAL KILLINGS DECREASED IN 1991 (BY 13 PERCENT THROUGH SEPTEMBER.) DUE TO THE ISOLATION OF MANY RURAL AREAS WHERE SENDERO IS MOST ACTIVE, THE NUMBER OF VICTIMS IS UNDERREPORTED.

SENDERO LUMINOSO CONTINUED ITS CAMPAIGN OF ASSASSINATING TEACHERS AND CLERGY, ENGINEERS, DEVELOPMENT AND HUMAN RIGHTS WORKERS, INDIAN PEASANTS, AND POLITICAL CANDIDATES, AS WELL AS GOVERNMENT, POLICE AND POLITICAL PARTY OFFICIALS. IT ALSO CONTINUED TO TERRORIZE AND INDOCTRINATE RURAL PEASANTS, AND INCREASED ITS ACTIVITY IN THE LARGE SLUM AREAS SURROUNDING LIMA AND OTHER URBAN CENTERS. SENDERO ROUTINELY EMPLOYS GRUESOME KILLING TACTICS, INCLUDING THE MUTILATION OF VICTIMS' BODIES,

~~UNCLASSIFIED~~

UNCLASSIFIED
[REDACTED]

BRUTAL BEATINGS, CASTRATION AND OTHER SEXUAL ABUSE, MURDER OF CHILDREN AND FORCING FAMILY MEMBERS TO WITNESS TORTURE AND KILLINGS. FOR EXAMPLE, IN APRIL, SENDERO MURDERED EIGHT MEMBERS OF ONE FAMILY, INCLUDING TWO MINOR CHILDREN, AND IN SEPTEMBER, SENDERO BRUTALLY BEAT, CASTRATED AND BURNED THE BODIES OF SEVEN MEMBERS OF A CIVIL DEFENSE GROUP. IN YANAZ, CAJAMARCA ON SEPTEMBER 23, A SENDERO COLUMN OF APPROXIMATELY 30 CONVOKED A "POPULAR ASSEMBLY", ACCUSED THE VILLAGERS OF FAILURE TO COLLABORATE WITH SENDERO AND MACHINE-GUNNED ELEVEN PEASANTS. SENDERO OFTEN ATTACKED REGIONAL, MUNICIPAL, AND LOCAL AUTHORITIES TO DISRUPT AND DESTROY CIVILIAN GOVERNMENT PRESENCE AND INFLUENCE. IN MAY 1991, SENDERO SHOT THE MAYOR OF PACHACAMAC AND THEN DYNAMITED HIS BODY WHILE FORCING HIS WIFE AND CHILDREN TO WATCH. HE WAS ONE OF MORE THAN 35 LOCAL ELECTED OR APPOINTED OFFICE-HOLDERS ASSASSINATED DURING 1991. DEVELOPMENT WORKERS AND PROVIDERS OF FOOD ASSISTANCE WERE ALSO PRIME SENDERO TARGETS DURING THE YEAR. IN MAY A SENDERO COLUMN KILLED FOUR WOMEN AND FIVE CHILDREN IN AYACUCHO; THE WOMEN WERE ACTIVE IN THE FREE MILK DISTRIBUTION PROGRAM. FOREIGNERS, PARTICULARLY FOREIGN RELIGIOUS AND DEVELOPMENT WORKERS, WERE ALSO TARGETED BY SENDERO, INCLUDING A CANADIAN CITIZEN EMPLOYED BY WORLD VISION, A CHURCH-AFFILIATED DEVELOPMENT ORGANIZATION; AN AUSTRALIAN NUN, SISTER IRENE MCCORMICK, AND THREE LOCAL COMMUNITY LEADERS; THREE JAPANESE DEVELOPMENT WORKERS; TWO POLISH PRIESTS AND AN ITALIAN PARISH PRIEST. A SECOND TERRORIST GROUP, THE MRTA, CONTINUED TO EXPAND BEYOND ITS ORIGINAL BASE OF OPERATIONS IN LIMA INTO SEVERAL RURAL

UNCLASSIFIED
[REDACTED]

UNCLASSIFIED

ZONES. ALTHOUGH THE MRTA CHIEFLY ENGAGES IN THE DESTRUCTION OF PROPERTY THROUGH SELECTIVE BOMBING, MRTA ATTACKS KILLED AT LEAST 79 PEOPLE IN 1991.

WHILE MANY RONDAS ACTIVELY WORKED IN A VARIETY OF LEGITIMATE FIELDS, INCLUDING COMMUNITY DEVELOPMENT AND SELF-DEFENSE, THERE WERE ALSO CREDIBLE REPORTS THAT SOME RONDAS, WHICH ARE OFTEN ORGANIZED AND EQUIPPED BY THE MILITARY, COMMITTED SERIOUS HUMAN RIGHTS ABUSES, INCLUDING THE TORTURE AND EXTRAJUDICIAL KILLING OF TERRORIST SUSPECTS OR EVEN OF RONDA MEMBERS OF RIVAL COMMUNITIES.

THERE WERE SEVERAL NOTABLE CASES OF PROBABLE MILITARY KILLINGS IN 1991, AND RONDAS PARTICIPATED IN SOME OF THEM. WITNESSES CHARGE THAT A MIXED ARMY/RONDAS PATROL WAS RESPONSIBLE FOR THE KILLING OF 14 PEASANTS INCLUDING WOMEN AND CHILDREN, WHOSE BODIES WERE FOUND IN AN ABANDONED MINE IN SANTA BARBARA, HUANCAMELICA. THE MILITARY SUBSEQUENTLY INVESTIGATED AND CHARGED FIVE NONCOMMISSIONED OFFICERS AND A COMMISSIONED OFFICER VARIOUSLY WITH MURDER, TORTURE, AND RAPE; THE CASE WAS PENDING AT YEAR'S END.

POLICE PERSONNEL WERE IMPLICATED DURING 1991 IN SEVERAL MURDERS, INCLUDING THE KILLING WHILE IN POLICE CUSTODY OF A MEDICAL STUDENT AND TWO TEENAGED BROTHERS. FIVE NONCOMMISSIONED OFFICERS WERE DISMISSED FROM THE POLICE FORCE AND WERE IN JAIL AT YEARS END AWAITING TRIAL IN CIVILIAN COURTS. DETENTION ORDERS AGAINST FOUR SUPERIOR OFFICERS AND ONE NONCOMMISSIONED OFFICER WERE VACATED BY ORDER OF A CIVILIAN COURT, BUT THE SUSPECTS REMAINED UNDER INVESTIGATION. ON OCTOBER 16, THE MINISTER OF INTERIOR PUBLICLY DISMISSED 33

UNCLASSIFIED

~~CONFIDENTIAL~~
UNCLASSIFIED

POLICE OFFICIALS FOR CRIMES INCLUDING HOMICIDE, EXTORTION, AND ROBBERY. NINE OF THE DISMISSED OFFICIALS, ACCUSED OF THE TORTURE AND KILLING OF AN ACCUSED DRUG TRAFFICKER WHILE IN POLICE CUSTODY, WERE REMANDED TO THE CIVILIAN COURTS (SEE SECTION 1.C.). IN MOST OTHER NOTABLE HUMAN RIGHTS ABUSE CASES IMPLICATING THE SECURITY FORCES, HOWEVER, NO JUDICIAL ACTION WAS TAKEN TO INVESTIGATE AND CHARGE THE PERPETRATORS. A MARCH 15 LETTER BOMB ATTACK ON HUMAN RIGHTS LAWYER DR. AUGUSTO ZUNIGA PAZ REMAINED UNRESOLVED. THE NOVEMBER 3 MASSACRE OF 17 PERSONS IN THE BARRIOS ALTOS NEIGHBORHOOD OF LIMA, BY A GROUP OF UNIDENTIFIED, ARMED MEN, REMAINS UNDER INVESTIGATION. WITH FEW EXCEPTIONS, THE SECURITY FORCES HAVE BEEN UNABLE TO THOROUGHLY AND CREDIBLY INVESTIGATE CASES IN WHICH THEIR OWN MEMBERS MAY BE IMPLICATED. THE PERUVIAN CODE OF MILITARY JUSTICE CONTAINS NO LANGUAGE FOR DEALING WITH CASES OF KILLING, KIDNAPPING, OR TORTURE--ONLY "NEGLIGENCE" AND "ABUSE OF AUTHORITY". MILITARY OFFICIALS ASSERT THAT A NUMBER OF ENLISTED MEN AND OFFICERS WERE HELD WITHIN THE MILITARY JUSTICE SYSTEM ON CHARGES RELATING TO HUMAN RIGHTS VIOLATIONS. FOR THE MOST PART, SUCH ASSERTIONS WERE DIFFICULT TO CONFIRM BECAUSE THE MILITARY COURTS SEALED RELEVANT RECORDS. IN JULY, THE MINISTER OF DEFENSE ANNOUNCED THAT 71 MILITARY PERSONNEL HAD BEEN PUNISHED FOR ABUSE OF AUTHORITY, INCLUDING HUMAN RIGHTS VIOLATIONS. HOWEVER, NEITHER THE IDENTITIES OF THESE INDIVIDUALS, THE NATURE OF THEIR OFFENSES, NOR THE EXACT SENTENCES IMPOSED HAVE BEEN MADE PUBLIC. THE MILITARY IN AT LEAST THREE CASES IN 1991 USED ITS COURT

UNCLASSIFIED

~~CONFIDENTIAL~~

UNCLASSIFIED

SYSTEM TO PRE-EMPT INVESTIGATIONS INTO CASES OF MILITARY ABUSES; UNDER THE LAW, THE ACCUSED IN A MILITARY COURT CANNOT SUBSEQUENTLY BE TRIED IN CIVILIAN COURTS FOR THE SAME OFFENSE. THE PENDING CIVILIAN COURT CASES AGAINST ARMY SERGEANT JHONNY ZAPATA ACUNA ("CENTURION") FOR THE 1990 MASSACRE OF 17 CIVILIANS IN CHILCAHUAYCCO, AYACUCHO REMAINED AT A STANDSTILL WHILE A MILITARY COURT PROCESSES THE CASE SLOWLY. THE SUPREME COUNCIL OF MILITARY JUSTICE FOUND LT. COL. VICTOR LA VERA HERNANDEZ ("JAVIER LANDA DUPONT") AND CAPT. AMADOR VIDAL SAMBENTO ("OJOS DE GATO") NOT RESPONSIBLE FOR THE NOVEMBER 1988 MURDER OF JOURNALIST HUGO BUSTIOS.

B. DISAPPEARANCE

THE PUBLIC MINISTRY REPORTS THAT THE MAJORITY OF THE FORMAL COMPLAINTS OF DISAPPEARANCES IMPLICATED THE SECURITY FORCES. IN 1991, THE PUBLIC MINISTRY REPORTED 279 NEW DISAPPEARANCES. THE COORDINADORA REPORTED 315 NEW DISAPPEARANCES IN 1991, INCLUDING 52 CASES WHICH OCCURRED IN 1991 BUT WERE ONLY REPORTED IN JANUARY 1992. DISAPPEARANCES WERE DOWN SHARPLY DURING THE SECOND HALF OF 1991. ACCORDING TO COORDINADORA AND THE PUBLIC MINISTRY FIGURES, UNRESOLVED DISAPPEARANCES AVERAGED 35 AND 29 PER MONTH RESPECTIVELY, FROM JANUARY THROUGH JULY, BUT FELL TO AN AVERAGE OF 16 AND 16 PER MONTH, RESPECTIVELY, FROM AUGUST THROUGH DECEMBER. MOST 1991 DISAPPEARANCE CASES INVOLVED ARMY DETENTION OF PERSONS SUSPECTED OF TERRORIST LINKS IN THE EMERGENCY ZONES; THE VAST MAJORITY OF DISAPPEARANCES WERE REPORTED IN THE VIOLENCE-TORN DEPARTMENTS OF SAN MARTIN, JUNIN, AND AYACUCHO. BASED ON THE TESTIMONY OF SURVIVORS, IT APPEARS THAT MOST

UNCLASSIFIED

UNCLASSIFIED

VICTIMS ARE TAKEN TO MILITARY BASES FOR INTERROGATION. SOME ARE EXECUTED BY THE ARMED FORCES, WHILE OTHERS ARE TURNED OVER TO THE CIVILIAN COURT SYSTEM TO BE RELEASED FOR LACK OF INCRIMINATING EVIDENCE OR IMPRISONED ON TERRORISM CHARGES. AN UNKNOWN NUMBER OF "DISAPPEARED" PERSONS ARE UNACCOUNTED FOR BECAUSE THEY JOINED THE RANKS OF THE MRTA OR SENDERO, EITHER VOLUNTARILY OR INVOLUNTARILY. IT IS BELIEVED THAT THE NUMBER OF PERSONS "DISAPPEARED" OR FORCIBLY RECRUITED BY SENDERO IS UNDERREPORTED.

ACCORDING TO WITNESSES AND FAMILY MEMBERS, MANUEL PACOTAYPE, MAYOR OF CHUSCHI, AYACUCHO, ALONG WITH THREE OTHER MEN, WERE DETAINED ON MARCH 14 BY MEMBERS OF THE NATIONAL POLICE AND TAKEN TO THE MILITARY BARRACKS AT PAMPA CANGALLO. THEY HAVE NOT BEEN SEEN SINCE.

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

ALTHOUGH THE CONSTITUTION PROHIBITS TORTURE AND INHUMAN OR HUMILIATING TREATMENT, CHARGES OF BRUTAL TREATMENT OF DETAINEES ARE COMMON. HUMAN RIGHTS GROUPS CHARGE THAT SUSPECTED SUBVERSIVES HELD BY THE GOVERNMENT SECURITY FORCES WERE ROUTINELY TORTURED AT MILITARY DETENTION CENTERS; LAWYERS AND OTHERS FAMILIAR WITH THE POLICE AND JUDICIAL SYSTEM CONCUR. IT DOES NOT APPEAR THAT SUSPECTS ARE TORTURED AT PERU'S MAIN COUNTER-TERRORISM DETENTION CENTER, RUN BY DIRCOTE IN LIMA. IN 1991 THERE WERE RELIABLE ACCOUNTS FROM RELEASED DETAINEES, HOWEVER, OF TORTURE OR MISTREATMENT BY SOME OTHER ELEMENTS OF THE POLICE AND MILITARY. THERE CONTINUED TO BE CREDIBLE

UNCLASSIFIED

UNCLASSIFIED

REPORTS OF RAPE BY ELEMENTS OF THE SECURITY FORCES IN THE EMERGENCY ZONES.

WHEN TORTURE OCCURS, IT OFTEN TAKES PLACE IN THE PERIOD IMMEDIATELY FOLLOWING DETENTION. THE 1987 TERRORISM LAW REQUIRES THAT PERSONS DETAINED FOR TERRORISM BE INTERROGATED ONLY IN THE PRESENCE OF A DEFENSE ATTORNEY AND A PUBLIC MINISTRY PROSECUTOR. IN THESE CASES, A COURT INDICTMENT MUST BE SOUGHT WITHIN 15 DAYS OF ARREST OR THE PRISONER MUST BE RELEASED. RELIABLE REPORTS OF VIOLATIONS OF THESE STANDARDS OCCUR FREQUENTLY IN THE EMERGENCY ZONES.

MANY VICTIMS OF SENDERO TERRORISM ALSO SHOW SIGNS OF HAVING BEEN TORTURED BEFORE DEATH. TORTURE OF THOSE VICTIMS OFTEN FOLLOWS A BRIEF "POPULAR TRIAL," NORMALLY HELD IN THE PRESENCE OF RURAL VILLAGERS AS A METHOD OF INTIMIDATION. SENDERO USES PARTICULARLY BRUTAL METHODS TO TORTURE VICTIMS TO DEATH, INCLUDING SLITTING THROATS, STRANGULATION, STONING, AND BURNING. MUTILATION OF THE BODY IS COMMON BOTH BEFORE AND AFTER DEATH.

PERUVIAN PRISON CONDITIONS ARE APPALLING. PRISONERS ARE EXPOSED TO UNSANITARY FACILITIES, POOR NUTRITION AND HEALTH CARE, AS WELL AS HARSH TREATMENT BY BOTH PRISON STAFF AND FELLOW PRISONERS. IN CONTRAST WITH 1990, WHEN MORE THAN 65 INMATES IN LIMA'S PRISONS DIED DUE TO SEVERE MALNUTRITION, NO SUCH DEATHS OCCURRED IN 1991. CORRUPTION IS RAMPANT AMONG PRISON STAFF, WHO HAVE BEEN IMPLICATED IN A MULTITUDE OF OFFENSES, FROM SEXUAL BLACKMAIL AND THE SELLING OF NARCOTICS AND WEAPONS TO INMATES, TO ARRANGING PRISON ESCAPES. CERTAIN PRISON CELLBLOCKS HAVE FALLEN UNDER SENDERO OR MRTA CONTROL AND

UNCLASSIFIED

~~CONFIDENTIAL~~
UNCLASSIFIED

GUARDS REFUSE TO VENTURE INTO THEM. PRESIDENT FUJIMORI CONTINUED HIS PROGRAM OF PHASED RELEASE OF UNCONVICTED PRISON INMATES AWAITING TRIAL, ESPECIALLY THOSE WHO HAVE ALREADY BEEN IN CUSTODY FOR A TIME GREATER THAN THE SENTENCE OF THE CRIME WITH WHICH THEY HAVE BEEN CHARGED.

D. ARBITRARY ARREST, DETENTION, OR EXILE THE CONSTITUTION, THE PENAL CODE, AND ANTI-TERRORIST LEGISLATION CLEARLY DELINEATE THE ARREST AND DETENTION PROCESS. HOWEVER, MOST IF NOT ALL OF THESE PROTECTIONS ARE SUSPENDED IN PRACTICE IN THOSE AREAS UNDER A STATE OF EMERGENCY.

IN AREAS NOT SUBJECT TO A STATE OF EMERGENCY, A WARRANT APPROVED BY A JUDGE TYPICALLY IS REQUIRED FOR ARREST, UNLESS A PERPETRATOR IS CAUGHT IN THE ACT. 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 ATTORNEY, OR THE GOVERNMENT MUST PROVIDE COUNSEL AT NO COST. 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 DETAINEE'S FAMILY AND HUMAN RIGHTS GROUPS OF AN ARREST, ALTHOUGH IN PRACTICE THIS IS NOT CONSISTENTLY DONE. POLICE DETENTION CENTERS DO NOT MAINTAIN PUBLICLY AVAILABLE REGISTERS DETAILING DETENTIONS, CHARGES, TRANSFERS, AND RELEASES OF DETAINEES. THE ICRC, HOWEVER, HAS ACCESS TO BOTH LOCAL POLICE DETENTION CENTERS AND TO THE NATIONAL REGISTRY OF MILITARY DETAINEES. IT IS EXPECTED THAT A COMPLETE

UNCLASSIFIED

[REDACTED] L

UNCLASSIFIED

NATIONAL LISTING OF DETAINEES, INCLUDING THOSE HELD BY THE POLICE FOR TERRORISM AND OTHER SECURITY CRIMES, WILL BE OPERATIONAL WITHIN THE NEXT YEAR. THERE IS NO FUNCTIONING BAIL SYSTEM; A FORM OF PROVISIONAL LIBERTY IS AVAILABLE, MORE IN THEORY THAN IN REALITY, FOR PERSONS NOT ACCUSED OF TERRORISM, ESPIONAGE, OR NARCOTICS OFFENSES.

ARREST PROCEDURES ARE DIFFERENT IN THE 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 OFTEN DISREGARDED BY MILITARY COMMANDERS IN THE EMERGENCY ZONES. OF THE DETAINEES HELD BY THE MILITARY INSIDE THE EMERGENCY ZONES, HUMAN RIGHTS GROUPS KNOW OF VERY FEW WHO WERE TURNED OVER TO CIVILIAN AUTHORITIES FOR PROSECUTION.

INCOMMUNICADO DETENTION OF SUSPECTS WAS A COMMON PRACTICE BY COMBATANT FORCES--GOVERNMENT AND TERRORIST ALIKE--OPERATING IN THE EMERGENCY ZONES. DOZENS OF PERSONS OF WHOSE DETENTION THE GOVERNMENT'S SECURITY FORCES HAD DENIED KNOWLEDGE NONETHELESS LATER WERE FOUND TO HAVE BEEN HELD IN MILITARY DETENTION CENTERS.

IN AUGUST THE GOVERNMENT ISSUED A LEGISLATIVE DECREE GRANTING CIVILIAN PUBLIC PROSECUTORS ACCESS TO ALL MILITARY BARRACKS AND DETENTION CENTERS, INCLUDING THOSE IN THE EMERGENCY ZONES. THE DECREE SPECIFIES THAT THE PROSECUTOR MAY PRIVATELY INTERVIEW A DETAINEE IMMEDIATELY UPON HIS DETENTION AND EXAMINE HIM OR HER FOR SIGNS OF PHYSICAL ABUSE. WHERE APPLICABLE, THE PROSECUTOR

UNCLASSIFIED

[REDACTED]

~~CONFIDENTIAL~~
UNCLASSIFIED

MAY ORDER THE PRISONER REMANDED INTO THE CIVILIAN COURT SYSTEM. IF REMANDED TO THE COURTS, THE PROSECUTOR IS TO ACCOMPANY THE PRISONER AND REQUIRE A FORMAL MEDICAL EXAMINATION UPON DELIVERING HIM INTO CIVILIAN JUDICIAL CUSTODY. A PUBLIC PROSECUTOR MUST BE PRESENT AT THE RELEASE OF ANY PRISONER FROM MILITARY DETENTION. BY YEAR'S END, PUBLIC PROSECUTORS HAD ENTERED A NUMBER OF MILITARY INSTALLATIONS IN THE EMERGENCY ZONES CHECKING FOR DETAINEES BUT NONE WERE FOUND. IN SEPTEMBER, ICRC PERSONNEL BEGAN UNANNOUNCED VISITS TO NUMEROUS MILITARY AND POLICE PLACES OF DETENTION FOLLOWING THE GOVERNMENT'S DECISION TO PERMIT SUCH ACCESS. IN AUGUST, THE MINISTRY OF DEFENSE INSTITUTED A NATIONAL REGISTRY OF DETAINEES HELD BY THE MILITARY FORCES. THE CONSTITUTION PROHIBITS FORCED INVOLUNTARY EXILE, AND THERE HAVE BEEN NO KNOWN CASES OF IT IN THE PAST 10 YEARS.

E. DENIAL OF FAIR PUBLIC TRIAL

THE LEGAL SYSTEM IS BASED GENERALLY ON THE NAPOLEONIC CODE. DEFENDANTS HAVE THE RIGHT TO BE PRESENT AT THE TRIAL, AT WHICH VERDICTS ARE RENDERED BY A JUDGE OR A PANEL OF JUDGES FOLLOWING AN INVESTIGATION AND THE FILING OF CHARGES. SENTENCES MAY BE APPEALED, AND JUDGES MAY SEND CASES BACK TO LOWER COURTS FOR ADDITIONAL INVESTIGATION. SUPREME COURT JUDGES, 28 IN ALL, ARE NOMINATED BY THE PRESIDENT FROM SLATES SUPPLIED BY AN ADVISORY COMMITTEE AND MUST BE APPROVED BY THE SENATE. MANY JUDGES ON THE SUPERIOR AND SUPREME COURTS ARE ACTIVE IN POLITICAL PARTIES, AND THERE ARE OCCASIONAL CLAIMS THAT DECISIONS HAVE BEEN POLITICALLY MOTIVATED.

UNCLASSIFIED

UNCLASSIFIED

COURTS FACE SEVERE BACKLOGS, A PRODUCT OF INEFFICIENCY, ARCHAIC CASE LAW AND CRIMINAL PROCEDURAL LAW, AND THE SHARP INCREASE IN TERRORISM CASES. THERE ARE TOO FEW PUBLIC DEFENDERS FOR THE LARGE CASELOADS. THERE IS AN ESTIMATED BACKLOG OF BETWEEN 250,000 AND 300,000 CRIMINAL CASES. HUMAN RIGHTS GROUPS HAVE DOCUMENTED HUNDREDS OF CASES OF PERSONS WHO HAVE BEEN DETAINED WITHOUT BAIL WHILE AWAITING TRIAL FOR PERIODS OF UP TO 4 YEARS--IN A FEW CASES MORE THAN TWICE THAT LONG. THERE WERE ALSO WIDESPREAD CHARGES OF CORRUPTION AND THE SUBORNING OF JUDGES, POLICE, AND WITNESSES AT ALL STAGES OF THE JUDICIAL PROCESS.

THE VAST MAJORITY OF HUMAN RIGHTS DENUNCIATIONS MADE TO THE PUBLIC PROSECUTOR'S OFFICE DURING THE PAST 10 YEARS HAVE NOT BEEN ADEQUATELY INVESTIGATED DUE TO LACK OF POLICE AND MILITARY COOPERATION, RESOURCES, AND OFFICIAL SUPPORT. PROVINCIAL PROSECUTORS ATTEMPTING TO INVESTIGATE DENUNCIATIONS IN THE EMERGENCY ZONES HAVE BEEN THREATENED, OBSTRUCTED, AND REFUSED INFORMATION BY MEMBERS OF THE ARMED FORCES. FOLLOWING A PRESIDENTIAL DECREE IN SEPTEMBER, ACCESS AND SUPPORT FOR HUMAN RIGHTS PROSECUTORS HAS IMPROVED, BUT THE SECURITY FORCES COOPERATION WITH CIVILIAN PROSECUTOR INVESTIGATIONS IS STILL LIMITED. THE PROSECUTORS THEMSELVES HAVE SOMETIMES NOT BEEN AGGRESSIVE IN PRESSING INVESTIGATIONS.

THREATS AND INTIMIDATION OF JUDGES HANDLING TERRORISM CASES ALSO ACCOUNT IN PART FOR THE LOW CONVICTION RATE OF ACCUSED TERRORISTS. SINCE 1983, ONLY 439 INDIVIDUALS HAVE BEEN TRIED AND CONVICTED FOR TERRORISM; ACCORDING TO THE PUBLIC MINISTRY, THIS REPRESENTS A CONVICTION RATE OF ONLY 10 PERCENT. THE

UNCLASSIFIED

UNCLASSIFIED

[REDACTED]

EXTREMELY LOW RATE OF CONVICTION IN TERRORISM CASES CONTRIBUTES TO POLICE/MILITARY FRUSTRATION WITH THE JUDICIAL PROCESS AND TO PUBLIC TOLERANCE OF ABUSES COMMITTED BY SECURITY FORCES OPERATING AGAINST PRESUMED TERRORISTS. IN SEPTEMBER, PRESIDENT FUJIMORI ANNOUNCED A HUMAN RIGHTS POLICY THAT MANDATED THE ESTABLISHMENT OF SPECIAL COURTS, PERSONNEL, AND SECURITY MEASURES FOR TERRORIST CASES, BUT BY YEAR'S END THERE HAD BEEN LITTLE IMPLEMENTATION.

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 CASES INVOLVING ITS PERSONNEL, AND THE SUPREME COURT TYPICALLY RULES IN ITS FAVOR. UNDER PERUVIAN LAW, THOSE TRIED IN MILITARY COURTS CANNOT BE RETRIED FOR THE SAME OFFENSE IN CIVILIAN COURTS. MILITARY COURTS HAVE USUALLY FAILED TO INVESTIGATE AND CONVICT MILITARY PERSONNEL IMPLICATED IN HUMAN RIGHTS VIOLATIONS. ARMY SERGEANT JHONNY ZAPATA ZCUNA ("EL CENTURION") WAS CHARGED IN CIVILIAN COURT FOR THE OCTOBER 1990 MASSACRE OF 17 PERSONS AT CILCAHUAYCCO, AYACUCHO.

HOWEVER, THE CIVILIAN COURT TRIAL REMAINED BLOCKED AS OF YEAR'S END WHILE A PARALLEL PROCESS PROCEEDS IN THE MILITARY COURTS. ARMY CAPTAIN AMADOR VIDAL SAMBENTO AND COMANDANTE VICTOR LA VERA HERNANDEZ WERE CHARGED IN CIVILIAN COURT FOR THE NOVEMBER 1988 KILLING OF JOURNALIST HUGO BUSTIOS SAAVEDRA, BUT MILITARY COURTS ASSERTED JURISDICTION AND FOUND THE ACCUSED NOT GUILTY. IN FEBRUARY THE SUPREME COURT ANNULLED A HABEAS CORPUS PETITION IN THE ERNESTO CASTILLO DISAPPEARANCE CASE (SEE SECTION 1.B.);

UNCLASSIFIED

UNCLASSIFIED

[REDACTED]

THIS WAS ONE OF THE FEW SUCH PETITIONS THAT HAD BEEN UPHELD BY THE LOWER COURTS SINCE 1983.

THERE WERE TWO NOTABLE CASES IN 1991 IN WHICH THE SECURITY FORCES COOPERATED WITH PROCEEDINGS TO HOLD SEVERAL OF THEIR MEMBERS ACCOUNTABLE FOR SERIOUS HUMAN RIGHTS VIOLATIONS. FIVE NONCOMMISSIONED POLICE OFFICERS WERE ARRESTED AND CHARGED IN CIVILIAN COURTS WITH THE JULY KILLING OF THREE YOUTHS IN CALLAO, LIMA. DETENTION ORDERS AGAINST FOUR SUPERIOR OFFICERS AND ONE NONCOMMISSIONED OFFICER INVOLVED IN THE CASES WERE VACATED BY ORDER OF A CIVILIAN COURT JUDGE, ALTHOUGH THE FOUR REMAINED UNDER INVESTIGATION. FIVE NONCOMMISSIONED OFFICERS AND AN OFFICER WERE CHARGED IN MILITARY COURT VARIOUSLY WITH MURDER, TORTURE, AND RAPE IN THE SANTA BARBARA CASE (SEE SECTION 1.A.) FOLLOWING A MILITARY INVESTIGATION. PROCEEDINGS WERE STILL PENDING AT YEAR'S END. MILITARY TRIALS MAY BE CLOSED TO THE PUBLIC AT THE DISCRETION OF THE RULING MAGISTRATE, AND LITTLE IS KNOWN ABOUT SPECIFIC CASES. A MILITARY COURT HEARD THE 1988 CAYARA MASSACRE CASE IN CLOSED SESSION IN JANUARY 1990 WITHOUT THE PRESENCE OF WITNESSES OR RELATIVES OF THE VICTIMS. THE SUPREME COUNCIL OF MILITARY JUSTICE FORMALLY CLOSED THE CASE ON JANUARY 31, 1991, EFFECTIVELY TERMINATING EFFORTS TO PROSECUTE THE CASE. A DECEMBER 1990 GOVERNMENT DECREE REQUIRING THAT SECURITY PERSONNEL CHARGED WITH CRIMES IN CONNECTION WITH THEIR SERVICE IN THE EMERGENCY ZONES BE TRIED IN MILITARY COURTS WAS SUBSEQUENTLY OVERTURNED BY CONGRESS.

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

UNCLASSIFIED

[REDACTED]

UNCLASSIFIED

THE CONSTITUTION STIPULATES THAT THE POLICE NEED A JUDICIAL WARRANT TO ENTER A PRIVATE DWELLING, AND THIS REQUIREMENT IS GENERALLY RESPECTED. THE REQUIREMENT IS SUSPENDED IN THE EMERGENCY ZONES, HOWEVER, AND SECURITY FORCES IN THOSE AREAS ROUTINELY CONDUCT SEARCHES OF PRIVATE HOMES WITHOUT WARRANTS. CREDIBLE REPORTS OF ILLEGAL TELEPHONE WIRETAPS REMAIN COMMON AND POLITICALLY CONTROVERSIAL.

WITH ARMY TRAINING AND ENCOURAGEMENT, A NUMBER OF RURAL COMMUNITIES ORGANIZED RONDAS TO PROTECT THEMSELVES AGAINST TERRORIST AND BANDIT INCURSIONS. WHILE IN PARTS OF THE NATION RONDAS HAVE EXISTED FOR CENTURIES AS A FORM OF SOCIAL ORGANIZATION AND TO PROTECT RESIDENTS FROM INVADERS AND RUSTLERS, MANY OF THE NEWER RONDAS WERE ACTIVELY ORGANIZED, AND SOMETIMES IMPOSED, UNDER THE DIRECTIONS OF THE MILITARY AUTHORITIES. MANY PEASANTS JOINED RONDAS VOLUNTARILY TO DEFEND AGAINST SENDERO AND MANY LEADERS ARE LOCALLY ELECTED. HOWEVER, IN SOME AREAS THERE WERE CREDIBLE REPORTS OF PEASANTS FORCED TO JOIN RONDAS. SENDERO WAS ALSO CREDIBLY ACCUSED OF REGULARLY FORCING PEASANTS TO JOIN THEIR MILITARY RANKS, OFTEN FOR EXTENDED PERIODS, REQUIRING THEIR INVOLVEMENT IN TERRORIST ATTACKS AND EXECUTIONS.

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

PERU HAS SIGNED THE TWO PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS RELATING TO THE PROTECTION OF VICTIMS OF INTERNATIONAL AND NON-INTERNATIONAL ARMED CONFLICT IN JULY 1989. IN SEPTEMBER 1991, THE GOVERNMENT AUTHORIZED ACCESS OF

UNCLASSIFIED

UNCLASSIFIED

THE INTERNATIONAL COMMITTEE OF THE RED CROSS TO ALL MILITARY FACILITIES ENGAGED IN ANTI-SUBVERSIVE OPERATIONS. THE AUTHORIZATION INCLUDES THE RIGHT TO INTERVIEW DETAINEES PRIVATELY. BY YEAR'S END, THE ICRC HAD MADE 114 VISITS TO 75 POLICE STATIONS AND 95 VISITS TO 77 MILITARY INSTALLATIONS WITHOUT HINDRANCE.

ACCORDING TO THE SENATE'S BERNALES COMMISSION, 3,180 PEOPLE, INCLUDING COMBATANTS AND CIVILIANS, WERE KILLED IN TERRORIST-RELATED VIOLENCE IN 1991. THIS IS AN 8 PERCENT DECREASE IN TERRORIST-RELATED VIOLENCE FROM 1990'S ALL-TIME HIGH. THE BERNALES FIGURE INCLUDES 334 POLICE AND MILITARY DEATHS, 1,287 CIVILIANS, 1,522 TERRORISTS, AND 37 NARCOTRAFFICKERS. OF THE 3,180 DEATHS, SENDERO KILLED 1,314, THE MILITARY 1,049, THE POLICE 346, MRTA 139, URBAN AND RURAL SELF DEFENSE GROUPS (RONDAS CAMPESINAS) 109, NARCOTRAFFICKERS 31, ANTITERRORIST PARAMILITARY GROUPS 9 AND UNKNOWN PERPETRATORS 177.

LOCAL HUMAN RIGHTS GROUPS MAINTAIN THAT A SIGNIFICANT BUT UNKNOWN NUMBER OF CAPTURED TERRORISTS AND INNOCENT CIVILIANS WERE SUMMARILY EXECUTED BY THE MILITARY IN 1991. SENDERO'S DISREGARD FOR THE RULES OF WAR AND HUMANITARIAN LAW ARE ALSO WELL KNOWN (SEE SECTION 1.A.) SENDERO ROUTINELY TORTURES, MUTILATES AND MURDERS ITS CAPTIVES.

THERE WERE WIDESPREAD ABUSES BY BOTH SECURITY AND TERRORIST FORCES OF THE RIGHTS OF PRISONERS, ABLE-BODIED, WOUNDED, AND SICK ALIKE. THE MILITARY'S VIOLATIONS OF INTERNATIONAL NORMS RANGED FROM THE ROUTINE BLINDFOLDING OF PRISONERS, TO THE FREQUENT REFUSAL TO ADMIT THAT CERTAIN PERSONS WERE BEING

UNCLASSIFIED

UNCLASSIFIED

DETAINED, TO THE LESS FREQUENT SUMMARY EXECUTION OF UNARMED PRISONERS. FOR ITS PART, SENDERO DOES NOT ACKNOWLEDGE HOLDING ANY GOVERNMENT PRISONERS; IT EXECUTES GOVERNMENT PRISONERS AS A MATTER OF POLICY.

RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A FREEDOM OF SPEECH AND PRESS

THE CONSTITUTION PROVIDES FOR FREEDOM OF SPEECH AND THE PRESS. WITH EIGHT TELEVISION STATIONS, ONE CABLE TELEVISION SYSTEM, 72 RADIO STATIONS, AND 18 DAILY NEWSPAPERS IN LIMA ALONE, PERUVIANS HAVE ACCESS TO A VERY BROAD RANGE OF OPINION AND INFORMATION. THE GOVERNMENT OWNS ONE OF THE THREE NATIONAL TELEVISION NETWORKS, A RADIO NETWORK, AND TWO NEWSPAPERS. MOST MAJOR OPPOSITION PARTIES BOAST THEIR OWN NEWSPAPERS, AND OPPOSITION FIGURES ALSO HAVE FREQUENT ACCESS TO THE GOVERNMENT MEDIA.

THERE WERE RELATIVELY FEW COMPLAINTS DURING 1991 OF GOVERNMENT PRESSURE ON THE MEDIA OR OF RESTRICTIONS ON JOURNALISTS. THERE WERE, HOWEVER, CHARGES THAT A POPULAR TELEVISION NEWS MAGAZINE PROGRAM WAS CANCELLED DUE TO MILITARY PRESSURE AFTER THE PROGRAM REVEALED THE DRAFT OF A MILITARY DOCUMENT AUTHORIZING SUMMARY EXECUTIONS UNDER CERTAIN CIRCUMSTANCES. THE MINISTER OF DEFENSE PUBLICLY REPUDIATED THE DRAFT PROPOSAL, AND THOSE INVOLVED IN ITS PREPARATION WERE ADMINISTRATIVELY PUNISHED. THE TELEVISION STATION MANAGEMENT STATED THAT THE PROGRAM WAS CANCELLED DUE TO ECONOMIC CONSIDERATIONS AND NOT AS A RESPONSE TO MILITARY PRESSURE.

IN SEPARATE ACTIONS MRTA AND SENDERO FORCES OCCUPIED THE

UNCLASSIFIED

UNCLASSIFIED

OFFICES OF SEVERAL RADIO STATIONS AND WIRE SERVICES, FORCING THE MEDIA OUTLETS TO TRANSMIT POLITICAL PROPAGANDA MESSAGES. SENDERO ALSO BOMBED SEVERAL RURAL RADIO STATIONS. SENDERO USED THREATS TO INTIMIDATE RADIO STATIONS, JOURNALISTS AND PUBLICATIONS.

JOURNALISTS WERE SOMETIMES THE VICTIMS OF VIOLENCE AND THREATS. THE COLLEGE OF PERUVIAN JOURNALISTS REPORTED THAT AS MANY AS 33 JOURNALISTS HAVE BEEN KILLED IN THE ELEVEN YEARS OF SENDERO VIOLENCE. AT LEAST FIVE NEWS MEDIA PERSONNEL WERE KILLED IN 1991. RADIO JOURNALIST LUIS ANTONIO MORALES ORTEGA, WHOM SENDERO LATER ACKNOWLEDGED AS ONE OF THEIR POLITICAL CADRE, WAS ASSASSINATED ON JULY 13. ONLY DAYS BEFORE HIS DEATH, HE HAD RECEIVED DEATH THREATS FROM A GROUP CALLING ITSELF THE ANTI-TERRORIST LIBERATION COMMAND, AND EARLIER HAD RECEIVED SIMILAR THREATS FROM THE RODRIGO FRANCO COMMAND (CRF). AYACUCHO JOURNALISTS MAGNO SOSA ROJAS AND NECIAS TAQUIRI ALSO RECEIVED THREATS FROM THE ANTI-TERRORIST LIBERATION COMMAND. MELISSA ALFARO, THE 23 YEAR-OLD NEWS EDITOR OF MRTA-LINKED CAMBIO NEWSPAPER, WAS KILLED ON OCTOBER 10 WHEN SHE OPENED A LETTER BOMB ADDRESSED TO CAMBIO EDITOR CARLOS ARROYO REYES. AYACUCHO JOURNALIST CIRILO ORE ENRIQUEZ WAS ASSASSINATED BY SENDERO ON OCTOBER 27. ORE HAD RECEIVED DEATH THREATS AND HIS NAME HAD APPEARED ON SENDERO BLACK LISTS CIRCULATED IN AYACUCHO IN THE WEEKS PRIOR TO HIS DEATH. ACADEMIC FREEDOM IS GENERALLY RESPECTED, BUT PROFESSORS AND STUDENTS ARE SOMETIMES THE VICTIMS OF THREATS AND ABUSES. SENDERO AND MRTA RESORT EXTENSIVELY TO THREATS AND ABUSE AGAINST FACULTY, STAFF, AND STUDENTS IN A NUMBER OF

UNCLASSIFIED

 UNCLASSIFIED

UNIVERSITIES WHICH THEY STRIVE TO CONTROL. ARMY UNITS ENTERED SAN MARCOS AND LA CANTUTA UNIVERSITIES IN MAY TO PAINT OUT SENDERO PROPAGANDA AND "RESTORE UNIVERSITY FREEDOM" WITH A SHOW OF MILITARY PRESENCE.

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

THESE RIGHTS ARE EXPRESSLY PROVIDED FOR IN THE CONSTITUTION AND ARE NORMALLY RESPECTED IN PRACTICE EXCEPT IN AREAS UNDER A STATE OF EMERGENCY (WHERE THE RIGHT OF ASSEMBLY IS SUSPENDED).. PUBLIC MEETINGS IN PLAZAS OR STREETS REQUIRE ADVANCE PERMISSION, WHICH MAY ONLY BE DENIED FOR REASONS OF PUBLIC SAFETY OR HEALTH. MUNICIPAL AUTHORITIES USUALLY APPROVED PERMITS FOR DEMONSTRATIONS IN LIMA AND NONEMERGENCY ZONES. MANY UNAUTHORIZED DEMONSTRATIONS ALSO OCCURRED, AND, FOR THE MOST PART, THE GOVERNMENT DEALT WITH THEM IN A NON-CONFRONTATIONAL MANNER. ON A NUMBER OF OCCASIONS, HOWEVER, POLICE ON THE SCENE RESORTED TO CLUBS, TEAR GAS, BUCKSHOT, AND TRUCK-MOUNTED WATER CANNONS TO BREAK UP MARCHES OR TO DISPERSE LARGE CROWDS. THESE TACTICS WERE FREQUENTLY USED AGAINST STRIKING PUBLIC SERVICE WORKERS, INCLUDING NURSES, SCHOOL TEACHERS, AND SOCIAL SECURITY WORKERS ON VARIOUS OCCASIONS DURING 1991.

C. FREEDOM OF RELIGION

ROMAN CATHOLICISM PREDOMINATES IN PERU, AND THE CONSTITUTION FORMALLY RECOGNIZES THE CHURCH "AS AN IMPORTANT ELEMENT IN THE HISTORICAL, CULTURAL AND MORAL DEVELOPMENT" OF THE NATION. THE CONSTITUTION ALSO ESTABLISHES THE SEPARATION OF CHURCH AND STATE AND ENSURES FREEDOM OF RELIGION AND CONSCIENCE. THESE

UNCLASSIFIED

[REDACTED]

UNCLASSIFIED

RIGHTS ARE RESPECTED IN PRACTICE.

MEMBERS OF VARIOUS RELIGIOUS ORGANIZATIONS REPORT HAVING RECEIVED DEATH THREATS FROM SENDERO DURING 1991. SENDERO IS BECOMING INCREASINGLY ANTAGONISTIC TO ORGANIZED RELIGION IN GENERAL AND TO FOREIGN CLERGY IN PARTICULAR; SEVERAL RELIGIOUS WORKERS WERE KILLED BY SENDERO (SEE SECTION 1.A.). DURING FEBRUARY AND MARCH MRTA BOMBED, OR TRIED TO BOMB, 15 MORMON CHURCHES.

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. FREEDOM OF MOVEMENT IS LEGALLY SUSPENDED WITHIN THE EMERGENCY ZONES, AND TRAVELERS MAY BE DETAINED BY AUTHORITIES AT ANY TIME. OTHER DOMESTIC AND INTERNATIONAL TRAVEL IS NOT RESTRICTED BY THE GOVERNMENT FOR POLITICAL REASONS.

SENDERO CALLED FOR NUMEROUS "ARMED STRIKES" IN VARIOUS PARTS OF THE COUNTRY, DURING WHICH CIVILIANS WERE OBLIGED TO STAY AT HOME OR RISK VIOLENCE IF THEY TRAVELED.

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 SUBJECT TO MONITORING BY AN AUTONOMOUS NATIONAL ELECTIONS BOARD, AND ELECTIONS ARE VIGOROUSLY CONTESTED BY PARTIES RANGING FROM CONSERVATIVE TO MARXIST-LENINIST. ELECTIONS ARE HELD EVERY 5 YEARS FOR PRESIDENT AND THE TWO VICE PRESIDENTS, AS WELL AS FOR

UNCLASSIFIED

[REDACTED]

CONFIDENTIAL

[REDACTED]

UNCLASSIFIED

THE SENATE AND CHAMBER OF DEPUTIES. THE PRESIDENT IS BARRED FROM RUNNING FOR CONSECUTIVE TERMS OF OFFICE. SUFFRAGE IS BOTH UNIVERSAL AND MANDATORY FOR PERSONS 18 TO 70 YEARS OF AGE, EXCEPT FOR ACTIVE DUTY POLICE OR MILITARY, WHO ARE BARRED FROM VOTING OR HOLDING PUBLIC OFFICE. BALLOTING IS DIRECT AND SECRET.

SENDERO LUMINOSO PERSISTENTLY SOUGHT TO DENY CITIZENS THEIR POLITICAL RIGHTS--PARTICULARLY IN THE MORE REMOTE AREAS--BY KILLING CANDIDATES AND ELECTED OFFICIALS AND THREATENING VOTERS (SEE SECTION 1.A.). SENDERO APPLIED THESE TACTICS IN THE AUGUST 1991 SUPPLEMENTAL ELECTIONS. DUE TO SENDERO INTIMIDATION THERE WERE NO CANDIDATES IN 123 DISTRICTS, WHICH CONSTITUTED 25 PERCENT OF THOSE DISTRICTS HOLDING ELECTIONS IN AUGUST 1991.

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

A NUMBER OF LOCAL PRIVATE HUMAN RIGHTS ORGANIZATIONS CONSTITUTE THE INDEPENDENT NATIONAL COORDINATING COMMITTEE FOR HUMAN RIGHTS. THESE INCLUDE COMISEDH, THE INSTITUTE FOR LEGAL DEFENSE (IDL), THE ASSOCIATION FOR HUMAN RIGHTS (APRODEH), THE CHURCH'S COMMISSION FOR SOCIAL ACTION (CEAS). A NUMBER OF OTHER, SMALLER GROUPS WORK IN THE DEPARTMENTAL CAPITALS AND OTHER CITIES. THESE GROUPS ARE GENERALLY CREDIBLE OBSERVERS, INVESTIGATING AND REPORTING ON HUMAN RIGHTS ABUSES TO THE EXTENT POSSIBLE, REGARDLESS OF THE PERPETRATOR. HOWEVER, VIOLENCE AGAINST HUMAN RIGHTS ACTIVISTS CONTINUED IN

UNCLASSIFIED

[REDACTED]


UNCLASSIFIED

1991, INCLUDING THE LETTER-BOMB ATTACK ON DR. AUGUSTO ZUNIGA PAZ, LEGAL COUNSEL FOR THE COMMISSION FOR HUMAN RIGHTS (SEE SECTION 1.A.). LOCAL HUMAN RIGHTS ORGANIZATIONS COMPLAIN THAT THEY ARE LIMITED BY THE MILITARY IN THEIR EFFORTS TO INVESTIGATE HUMAN RIGHTS ABUSES IN THE EMERGENCY ZONES AND THAT THEIR REQUESTS TO THE GOVERNMENT FOR INFORMATION ARE USUALLY IGNORED. LEGITIMATE FEARS OF ATTACKS BY SENDERO ALSO GREATLY LIMIT THE ABILITY OF HUMAN RIGHTS MONITORS TO INVESTIGATE REPORTED CASES OF ABUSE. PORFIRIO SUNI QUISPE, THE PRESIDENT OF A REGIONAL HUMAN RIGHTS COMMISSION, WAS ASSASSINATED BY SENDERO ON FEBRUARY 14, IN PUNO.

PRESIDENT FUJIMORI REGULARLY SPOKE OUT DEMANDING GREATER RESPECT FOR HUMAN RIGHTS. AT AN ARMY DAY CELEBRATION IN SEPTEMBER, THE PRESIDENT TOLD AN AUDIENCE OF MILITARY OFFICERS THAT PERU WOULD CONTINUE TO FIGHT THE ARMED INSURGENTS WITH DISCIPLINE AND RESPECT FOR HUMAN RIGHTS. HE ADDED, HOWEVER, THAT SOME HUMAN RIGHTS GROUPS HAD NOT BEEN EVEN-HANDED, FAILING TO EQUALLY CONDEMN THE HUMAN RIGHTS OFFENSES COMMITTED BY THE TERRORISTS, AND HAD THUS SERVED THE ENDS OF TERRORISM. LOCAL HUMAN RIGHTS GROUPS VIGOROUSLY DENIED THESE ALLEGATIONS AND EXPRESSED CONCERN THAT THIS REMARK COULD ENDANGER THE LIVES OF THEIR MEMBERS.

SEVERAL FOREIGN NONGOVERNMENTAL HUMAN RIGHTS ORGANIZATIONS SENT REPRESENTATIVES TO PERU DURING 1991 TO INVESTIGATE THE HUMAN RIGHTS SITUATION. VARIOUS OF THESE VISITORS MET WITH SUCH OFFICIALS AS PRESIDENT FUJIMORI, THE MINISTER OF DEFENSE, THE PUBLIC MINISTER, AND MILITARY AUTHORITIES. SOME VISITED SITES IN THE EMERGENCY ZONES. THE INTER-AMERICAN HUMAN RIGHTS

UNCLASSIFIED


[REDACTED] UNCLASSIFIED

COMMISSION VISITED PERU IN OCTOBER 1991 TO INVESTIGATE THE HUMAN RIGHTS SITUATION. REPRESENTATIVES OF THE MILITARY JOINT COMMAND MET WITH REPRESENTATIVES OF HUMAN RIGHTS MONITORING GROUPS. SEVERAL HUMAN RIGHTS GROUPS WERE INVITED TO PARTICIPATE IN SEMINARS AND TO OFFER HUMAN RIGHTS INSTRUCTION AT MILITARY AND POLICE ACADEMIES. THE ICRC HAS REGULAR ACCESS TO PRISON AND DETENTION FACILITIES, AND TO A MILITARY REGISTRY OF DETAINEES.

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

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

SEXUAL VIOLENCE, INCLUDING SPOUSE ABUSE, IS A CHRONIC PROBLEM. POLICE IN LIMA RECEIVE APPROXIMATELY 100 FORMAL COMPLAINTS OF RAPE DAILY. POLICE ESTIMATE, HOWEVER, THAT LESS THAN 10 PERCENT OF ALL RAPE CASES ARE REPORTED. OF THE 2,800 RAPE CASES TRIED IN LIMA IN 1991, ONLY 340 RESULTED IN CONVICTIONS. A SPECIAL POLICE CENTER, STAFFED BY POLICEWOMEN, OPERATES IN LIMA TO PROVIDE LEGAL, MEDICAL, AND PSYCHIATRIC ASSISTANCE TO ABUSED SPOUSES AND CHILDREN. A NUMBER OF WOMEN'S ORGANIZATIONS AND FEMINIST GROUPS ARE ACTIVE IN PERU.

PERU'S LARGE INDIGENOUS POPULATION AND ITS SMALL BLACK POPULATION ARE SUBJECT TO PERVASIVE SOCIAL DISCRIMINATION. THE FORMER GROUP, MOSTLY SPEAKERS OF QUECHUA, AYMARA, AND OTHER

UNCLASSIFIED

UNCLASSIFIED

NATIVE LANGUAGES, TRADITIONALLY HAS LACKED ACCESS TO PUBLIC SERVICES. PERU IS A CLASSIC CASE OF DIFFERENTIAL DEVELOPMENT, WITH PUBLIC INVESTMENT TRADITIONALLY FOCUSED ON THE COAST, DRAWING MIGRANTS TO THE CITIES, ESPECIALLY LIMA. RECOGNIZING THIS FACT, THE GOVERNMENT HAS ATTEMPTED TO REDIRECT 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 REMOTE AREAS AND BY THE CONTINUED, TARGETED DISRUPTION OF THESE EFFORTS BY SENDERO. AS A RESULT OF CURRENT PROBLEMS, AS WELL AS HISTORIC AND CONTINUED PREJUDICE, THE ECONOMIC AND SOCIAL NEEDS OF PERUVIANS OF EUROPEAN ANCESTRY CONTINUED TO BE MET TO A FAR GREATER EXTENT THAN THOSE OF PERUVIANS OF BLACK, MIXED, OR INDIAN HERITAGE.

SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

THE CONSTITUTION PROVIDES FOR FREEDOM OF ASSOCIATION AND, EXCEPT FOR THE JUDICIARY, POLICE, MILITARY, AND MILITARY PARASTATALS, THE RIGHT TO FORM LABOR UNIONS WITHOUT PREVIOUS AUTHORIZATION. HOWEVER, THERE ARE SOME LEGAL RESTRICTIONS ON THE RIGHT TO FORM A UNION. THERE IS, FOR EXAMPLE, A REQUIREMENT TO REGISTER WITH THE MINISTRY OF LABOR FOR THE UNION TO BECOME A LEGAL ENTITY CAPABLE OF PERFORMING ITS FUNCTIONS. SUSPENSION OR DISSOLUTION OF LABOR UNIONS IS FORBIDDEN BY THE CONSTITUTION EXCEPT THROUGH THE CIVIL COURT SYSTEM AT THE REQUEST OF THE UNION ITSELF OR BY LABOR MINISTRY CANCELLATION OF THE UNION'S REGISTRATION. UNIONS MAY FORM INDUSTRY-WIDE FEDERATIONS WHICH CAN, IN TURN, FORM

UNCLASSIFIED

UNCLASSIFIED

CONFEDERATIONS, ALL OF WHICH MAY AFFILIATE WITH INTERNATIONAL LABOR ORGANIZATIONS AND SUCH AFFILIATIONS ARE COMMONPLACE. PRIVATE AND PUBLIC SECTOR UNIONS OF WORKERS PERFORMING THE SAME TYPE OF WORK CANNOT JOIN TOGETHER AS A CONFEDERATIONS AT ANY LEVEL. IN LATE DECEMBER 1990, THE GOVERNMENT ISSUED A NEW DECREE THAT ALLOWS THE FORMATION OF NEW UNIONS WITH A MINIMUM OF 20 MEMBERS, AND ALLOWS MULTIPLE UNIONS WITH THE SAME WORKPLACE. THE MEASURE ALSO ATTEMPTS TO LIMIT THE POWER OF THE POLITICALLY AFFILIATED LEADERSHIP OF THE EXISTING LABOR ORGANIZATIONS BY ALLOWING ANY TWO UNIONS TO FORM A CONFEDERATION.

ONLY ABOUT 15 PERCENT OF THE LABOR FORCE IS ORGANIZED, ALTHOUGH SOME LABOR ORGANIZATION IS FOUND IN INDUSTRIES RESPONSIBLE FOR ABOUT 70 PERCENT OF PERU'S GROSS NATIONAL PRODUCT. THE MAJORITY OF UNORGANIZED WORKERS ARE IN THE COUNTRYSIDE AND INVOLVED IN THE VAST UNDERGROUND "INFORMAL" SECTOR WHICH WORKS OUTSIDE GOVERNMENT REGULATIONS. ALTHOUGH A SIGNIFICANT PERCENTAGE OF ORGANIZED LABOR BELONGS TO INDEPENDENT UNIONS AND FEDERATIONS, THOSE UNIONS WITH A POLITICAL PARTY AFFILIATION ARE ROUTINELY MANIPULATED TO SERVE PARTISAN POLITICAL INTERESTS. 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

UNCLASSIFIED

[REDACTED] UNCLASSIFIED

ON STRIKE. WHEN DIRECT NEGOTIATIONS BETWEEN WORKERS AND EMPLOYERS BREAK DOWN, THE GOVERNMENT CAN INTERVENE AND CONSTITUTE A TRIPARTITE (GOVERNMENT, MANAGEMENT, LABOR) BOARD TO REVIEW THE SITUATION. IF NO AGREEMENT IS REACHED, THE GOVERNMENT WEIGHS THE OVERALL ECONOMIC IMPLICATIONS OF THE EMPLOYER'S AND THE WORKERS' POSITIONS AND MAKES A DECISION (WHICH CAN BE APPEALED ADMINISTRATIVELY). A GOVERNMENT DETERMINATION THAT A STRIKE IS ILLEGAL CAN LEAD TO THE DISMISSAL OF WORKERS OR UNION LEADERS AND PERMITS EMPLOYERS TO HIRE STRIKEBREAKERS LEGALLY. THERE ARE NO NORMS REGULATING STRIKES IN THE PUBLIC SECTOR AND ALL SUCH STRIKES, COMMON THOUGH THEY ARE, ARE OPEN TO LEGAL CHALLENGE.

IN SPITE OF THE CONSTITUTIONAL RIGHT TO STRIKE, NEARLY ALL STRIKES IN PERU ARE DECLARED ILLEGAL. HOWEVER, THE WORKERS WHO STRIKE ILLEGALLY ARE SELDOM PENALIZED. FOLLOWING A SERIES OF DISRUPTIVE PUBLIC SECTOR STRIKES IN LATE 1990, THE GOVERNMENT ISSUED A SUPREME DECREE RESTRICTING THE RIGHT OF GOVERNMENT WORKERS IN "ESSENTIAL SERVICES" TO STRIKE. ALTHOUGH THE RIGHT TO STRIKE REMAINS, A MINIMUM LEVEL OF ESSENTIAL SERVICES MUST BE MAINTAINED. "ESSENTIAL SERVICES" WAS BROADLY DEFINED BY THE DECREE, WHICH GENERATED A COMPLAINT TO THE INTERNATIONAL LABOR ORGANIZATION (ILO). DESPITE THESE RESTRICTIONS, SEVERAL MAJOR STRIKES IN ESSENTIAL PUBLIC SERVICES TOOK PLACE IN 1991.

IN 1991 THE ILO'S COMMITTEE ON FREEDOM OF ASSOCIATION CONSIDERED THREE CASES INVOLVING GOVERNMENT FAILURE TO PROSECUTE MILITARY AND OTHER OFFICIALS ALLEGEDLY RESPONSIBLE FOR THE ILLEGAL DETENTION, TORTURE, DISAPPEARANCE, AND MURDER OF WORKERS, PEASANTS AND UNION OFFICIALS; AND CALLED FOR AN

UNCLASSIFIED

UNCLASSIFIED

[REDACTED]

INDEPENDENT JUDICIAL INQUIRY. OTHER ILO BODIES ACKNOWLEDGED SOME IMPROVEMENT IN THE TRADE UNION LAW, FOR EXAMPLE IN TERMS OF PERMITTING GREATER PLURALISM, BUT CALLED FOR FURTHER LIFTING OF RESTRICTIONS DEALING WITH PUBLIC EMPLOYEE RIGHTS, FREE CHOICE OF REPRESENTATIVES, FREEDOM TO PARTICIPATE IN POLITICAL ACTIVITY AND COLLECTIVE BARGAINING.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

THE RIGHT TO BARGAIN COLLECTIVELY IS PROVIDED FOR BY THE CONSTITUTION, BUT THERE ARE RESTRICTIONS ON WHAT CAN BE NEGOTIATED. IN THE PUBLIC SECTOR, HOWEVER, ONLY WORKING CONDITIONS MAY BE NEGOTIATED, AND THEN ONLY IF 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.

BY LAW, EMPLOYERS CANNOT DISCRIMINATE AGAINST UNION MEMBERS OR ORGANIZERS. IN PRACTICE, HOWEVER, UNION ACTIVISTS ARE SOMETIMES HARASSED BY EMPLOYERS WHO THREATEN TO FIRE THEM. OTHERS ARE PAID OFF TO LEAVE THE ENTERPRISE. WORKERS MAY APPEAL THEIR CASES THROUGH THE MINISTRY OF LABOR OR, IF A DECISION IS NOT ACCEPTABLE TO BOTH PARTIES, THROUGH THE CIVIL COURTS. IN SOME CASES, A WORKER IS KEPT ON THE COMPANY'S PAYROLL UNTIL A FINAL LEGAL RULING IS OBTAINED. IN OTHER CASES, A WORKER MAY BE AWARDED BACK PAY IN A FINAL SETTLEMENT. THERE WERE SEVERAL REPORTED INCIDENTS DURING THE YEAR OF SERIOUS HARASSMENT AND INTIMIDATION OF LABOR UNION ACTIVISTS. SENDERO THREATENED LEADERS OF THE TEACHERS UNION IN ORDER TO PROTRACT A FIVE MONTH STRIKE IN THE PUBLIC EDUCATION SECTOR.

UNCLASSIFIED

[REDACTED]

UNCLASSIFIED

LABOR LAWS AND REGULATIONS ARE APPLIED UNIFORMLY THROUGHOUT THE COUNTRY, INCLUDING THE FREE TRADE ZONE OF TACNA, AND AN AREA OF THE AMAZON BASIN, GRANTED IN A PERU/COLOMBIA BORDER AGREEMENT, WHICH IS ANALOGOUS TO A FREE TRADE ZONE.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

THE CONSTITUTION PROHIBITS COMPULSORY LABOR, AND THIS PROHIBITION IS USUALLY RESPECTED IN PRACTICE. THERE HAVE BEEN A FEW, UNVERIFIED REPORTS OF COMPULSORY LABOR ON PLANTATIONS IN REMOTE AREAS OF THE COUNTRY WHERE LAW ENFORCEMENT IS ALL BUT NONEXISTENT. SENDERO HAS ALSO BEEN ACCUSED OF FORCIBLY RECRUITING PEASANTS TO EITHER JOIN ITS RANKS OR RENDER SUPPORT SERVICES. THERE WERE ALSO CREDIBLE COMPLAINTS THAT THE MILITARY USED COERCION TO RECRUIT PEASANTS TO JOIN SELF-DEFENSE MILITIAS (SEE SECTION 1.F.).

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, THE LAW ALLOWS FOR THE EMPLOYMENT OF OLDER CHILDREN IN SOME JOBS, FOR A LIMITED PERIOD OF TIME, AND FOR A CURTAILED WORKWEEK AT FULL PAY. ACCORDING TO A 1987 SENATE REPORT, HOWEVER, 1.1 MILLION CHILDREN 6 TO 14 YEARS OF AGE WORK, MOSTLY IN THE INFORMAL SECTOR. UNOFFICIAL SOURCES ESTIMATE THAT ABOUT HALF A MILLION CHILDREN WORK IN THE LIMA AREA ALONE. A 1989 SURVEY OF 133 WORKING CHILDREN BY THE AGRARIAN UNIVERSITY IN LIMA SHOWED THAT 78 PERCENT OF THEM WERE BETWEEN 10 AND 12 YEARS OLD. SOME 40 PERCENT SOLD ASSORTED MERCHANDISE AS STREET VENDORS, AND 53 PERCENT WENT TO SCHOOL ONLY OCCASIONALLY OR NOT AT ALL. ONE-THIRD WORKED 7 DAYS A WEEK, AND 7 PERCENT OF THE TOTAL

UNCLASSIFIED

UNCLASSIFIED

WORKED BETWEEN 2 AND 5 DAYS A WEEK. THERE WERE CONFIRMED REPORTS OF CHILDREN WORKING IN CONDITIONS APPROACHING SLAVERY IN THE PLACER GOLD FIELDS OF MADRE DE DIOS DEPARTMENT. IN THIS REMOTE AREA, HERE THERE IS VIRTUALLY NO GOVERNMENT PRESENCE, THE CHILDREN WERE OVERWORKED AND ILL-FED. GRAVES OF CHILDREN WHICH WERE DISCOVERED IN 1991 BROUGHT THE ISSUE TO PUBLIC NOTICE.

E. ACCEPTABLE CONDITIONS OF WORK

THE ADMINISTRATIVELY SET MINIMUM WAGE WAS LAST INCREASED BY THE GOVERNMENT IN JANUARY 1991. IT CONTINUES TO LAG BEHIND INFLATION AND IS NOT SUFFICIENT TO PROVIDE A DECENT STANDARD OF LIVING FOR A WORKER AND FAMILY. THE GOVERNMENT IMPLICITLY RECOGNIZED THE INADEQUACY OF WAGES PAID TO GOVERNMENT WORKERS, OFTEN BELOW THE MINIMUM WAGE, WHEN IT REDUCED THE REQUIRED WORK WEEK TO 24 HOURS IN ORDER TO ALLOW GOVERNMENT WORKERS, INCLUDING POLICE AND MILITARY, TO SEEK SECONDARY EMPLOYMENT TO SUPPLEMENT THEIR INCOMES. HOWEVER, MANY PERUVIANS ARE PAID MORE THAN THE MINIMUM WAGE AND MANY OTHERS SUPPLEMENT THEIR INCOME THROUGH MULTIPLE JOBS OR SUBSISTENCE FARMING, OR BOTH. NONETHELESS, ACCORDING TO A SEPTEMBER 1990 WORLD BANK REPORT, 55 PERCENT OF ALL PERUVIANS LIVE IN EXTREME POVERTY. THE LABOR CODE PROVIDES FOR AN 8-HOUR DAY AND AN OFFICIAL 48-HOUR WEEK FOR MEN, AND A 45-HOUR WEEK FOR WOMEN, BUT ITS PROVISIONS CONCERNING CONDITIONS OF WORK ARE ROUTINELY IGNORED BY MOST EMPLOYERS. ALL WORKERS ARE LEGALLY ENTITLED TO 30 DAYS PAID ANNUAL VACATION. THOSE IN THE PRIVATE SECTOR HAVE TO WORK A MINIMUM OF 260 DAYS (EXCLUDING 30 DAYS' SICK LEAVE) OR

UNCLASSIFIED

UNCLASSIFIED

FORFEIT THEIR VACATION. IN AN ECONOMY WHERE UNEMPLOYMENT AND UNDEREMPLOYMENT TOTAL AN ESTIMATED 80 PERCENT, HOWEVER, VACATION BENEFITS AND OTHER CONDITIONS OF WORK ARE READILY SACRIFICED IN EXCHANGE FOR STEADY OR EVEN TEMPORARY EMPLOYMENT.

THERE ARE GOVERNMENT STANDARDS FOR INDUSTRIAL HEALTH AND SAFETY, BUT THESE ARE RARELY ENFORCED, EITHER BY THE EMPLOYER OR THE GOVERNMENT (WHICH HAS NO INSPECTORS). ACCIDENTS ARE COMMON, AND THERE IS USUALLY NO EMPHASIS ON PREVENTION; ONCE ACCIDENTS OCCUR, EMPLOYERS NORMALLY MAKE VOLUNTARY COMPENSATION, HOWEVER MINIMAL.

EAGLEBURGER

ADMIN
END OF MESSAGE

UNCLASSIFIED