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TO AMEMBASSY LIMA PRIORITY

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E.O. 12356 DECL:OADR
TAGS: SHUM, PE
SUBJECT: PERU HUMAN RIGHTS

REF: ORDAL/FELDER TELCOM 11/21/83

1. PERU'S HUMAN RIGHTS REPORT, AS EDITED BY HA AND ARA,
IS AS FOLLOWS. WE WOULD APPRECIATE ANY FINAL COMPLETED
COMMENTS ASAP BEFORE REPORT IS COMPLETED.

2. PRESIDENT FERNANDO BELAUNDE TOOK OFFICE IN JULY 1980,
FOLLOWING FREE AND OPEN ELECTIONS HELD IN ACCORDANCE WITH
THE 1979 CONSTITUTION WRITTEN BY AN ELECTED CONSTITUENT
ASSEMBLY. THE CONSTITUTION ESTABLISHED A DEMOCRATIC
REPUBLIC WITH AN EXECUTIVE BRANCH, A BICAMERAL
LEGISLATURE, AND AN AUTONOMOUS JUDICIAL SYSTEM. IT ALSO
PROVIDED FOR AN INDEPENDENT PUBLIC MINISTRY, HEADED BY AN
AUTONOMOUS ATTORNEY GENERAL WITH BOTH PROSECUTORIAL AND
OMBUDSMAN ROLES.

3. PERU'S RETURN TO DEMOCRACY CAME AFTER MORE THAN A

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DECADE OF MILITARY RULE THAT BEGAN WITH A COUP IN 1968.
THE AUTHORITARIAN MILITARY GOVERNMENTS ATTEMPTED TO
IMPOSE SOCIAL CHANGE FROM ABOVE. THE BELAUNDE GOVERNMENT
HAS SOUGHT TO ELIMINATE VESTIGES OF AUTHORITARIANISM,
STRENGTHENING DEMOCRATIC INSTITUTIONS AND GUARANTEEING

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PERUVIANS LONG-DENIED BASIC POLITICAL RIGHTS.

4. THE BELAUNDE ADMINISTRATION ALSO ATTEMPTS TO ACHIEVE EQUITABLE ECONOMIC GROWTH THROUGH GENERALLY MARKET-ORIENTED ECONOMIC POLICIES. HOWEVER, AS THE RESULT OF ADVERSE FACTORS INCLUDING A LEGACY OF STATISM AND DEHERITED FROM THE MILITARY REGIME, WORLDWIDE RECESSION, AND CONSEQUENT LOW PRICES FOR PERUVIAN RAW MATERIAL EXPORTS, AND NATURAL DISASTERS, SOME ECONOMIC TARGETS WERE NOT MET IN 1983, WHICH INCREASED SOCIAL AND POLITICAL PRESSURES THROUGHOUT THE COUNTRY.

5. CONCURRENTLY, IN LATE 1982 AND 1983 PERU WAS BESET BY A SHARP INCREASE IN ATTACKS BY THE SENDERO LUMINOSO- ("SHINING PATH") TERRORISTS IN THREE POVERTY-STRICKEN CENTRAL MOUNTAIN DEPARTMENTS. THE SENDERO LUMINOSO ASSASSINATED AN INCREASING NUMBER OF VILLAGERS AND LOCAL OFFICIALS IN AN EFFORT TO BRING ABOUT A GENERALIZED REVOLUTION, CREATING STRONG PRESSURES ON THE GOVERNMENT FOR EFFECTIVE COUNTERTERRORIST ACTION. DURING 1983, THE TERRORISTS SPREAD THEIR ACTION TO OTHER AREAS OF THE COUNTRY, NOTABLY LIMA ITSELF, CREATING A CLIMATE OF FEAR AND INDIGNATION. SENDERO LUMINOSO HAS BEEN DENOUNCED BY ALL PARTICIPANTS IN THE PERUVIAN DEMOCRATIC PROCESS, INCLUDING REPRESENTATIVES OF THE MARXIST LEFT.

6. IN LATE 1982, PRESIDENT BELAUNDE ACCEDED TO PUBLIC CLAMOR THAT HE DEAL WITH THE GROWING TERRORIST THREAT BY

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SENDING MILITARY FORCES INTO AN "EMERGENCY ZONE" COMPOSED OF PORTIONS OF THE THREE AFFECTED DEPARTMENTS, WHICH TOGETHER ACCOUNT FOR 8 PERCENT OF PERU'S POPULATION AND 7 PERCENT OF ITS LAND AREA. IN ACCORDANCE WITH "STATE OF EMERGENCY" PROVISIONS OF THE CONSTITUTION, CERTAIN SPECIFIC GUARANTEES WERE SUSPENDED AND REMAINED SUSPENDED IN THE "EMERGENCY ZONE" THROUGHOUT 1983, WITH MILITARY OFFICERS EXERCISING POLITICAL AUTHORITY IN THE ZONE. THE SPREAD OF TERRORIST VIOLENCE TO LIMA IN LATE MAY PROVOKED THE DECLARATION IN MAY OF A NATIONWIDE STATE OF EMERGENCY (SEPARATE FROM THE DECREE COVERING THE EMERGENCY ZONE), WHICH THE GOVERNMENT ALLOWED TO LAPSE IN MID-SEPTEMBER TO FACILITATE A NATIONWIDE CAMPAIGN FOR MUNICIPAL ELECTIONS IN NOVEMBER.

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7. ALTHOUGH THE NATIONWIDE STF EMERGENCY HAD LITTLE IMPACT ON DAILY LIFE FOR MOST PERUVIANS, THOSE LIVING IN THE EMERGENCY ZONE WERE AFFECTED BY THE SPECIAL REGIME THERE. OPERATING UNDER A UNIFIED "POLITICAL MILITARY COMMAND," UNITS OF PERU'S THREE NATIONAL POLICE SERVICES WORKED WITH SOLDIERS AND MARINES TO REESTABLISH GOVERNMENT CONTROL IN THE ZONE. THE SECURITY FORCE ACHIEVED SOME APPARENT SUCCESSES IN FEBRUARY AND MARCH, BUT A SERIES OF COMMUNAL MASSACRES BY THE TERRORISTS IN APRIL DEMONSTRATED THAT GOVERNMENT CONTROL IN THE REGION WAS SPOTTY, AND THAT TERRORIST CADRES RETAINED AN ABILITY TO OPERATE AT WILL. THE REGION'S NATURAL ISOLATION, COMPOUNDED BY ITS CULTURAL DISTANCE FROM WESTERNIZED NEWS MEDIA ALONG THE COAST, MADE INFORMATION GATHERING OR INDEPENDENT VERIFICATION OF RESPONSIBILITY FOR EVENTS DIFFICULT. BUT THE PATTERN OF DEVELOPMENTS DEMONSTRATED THAT, DESPITE THE GOVERNMENT'S INCREASED EFFORTS, MOST RESIDENTS OF THE REGION WERE LESS SECURE IN THEIR HOMES AND PERSONS IN 1983 THAN IN 1982.

8. GOVERNMENT STATISTICS MAKE CLEAR HOW THE SITUATION IN [REDACTED]

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THE EMERGENCY ZONE DETERIORATED. FROM THE ONSET OF SIGNIFICANT TERRORIST VIOLENCE IN MAY, 1980 UNTIL THE END OF 1982, SOME 166 PERSONS (INCLUDING 27 POLICE, 71 CIVILIANS, AND 48 TERRORISTS) LOST THEIR LIVES. SPEAKING TO FOREIGN NEWSMEN ON AUGUST 19, 1983, INTERIOR MINISTER LUIS PERCOVICH PROVIDED AN UPDATED CASUALTY FIGURE OF 1,580 (POLICE LOSSES GIVEN AS 59, CIVILIANS 465, AND TERRORISTS 1,033). ALMOST ALL THESE DEATHS OCCURRED IN THE EMERGENCY ZONE.

9. THE INCREASING DEATH TOLL WAS ACCOMPANIED BY REPORTS IN LIMA'S OPPOSITION PRESS, ECHOED BY SOME POLITICAL LEADERS AND COMMENTATORS, CONCERNING "DISAPPEARANCES" AND OTHER ABUSES ALLEGEDLY COMMITTED BY THE SECURITY FORCES. AMNESTY INTERNATIONAL EXPANDED ON THESE CHARGES IN AUGUST AND SEPTEMBER. HIGH MILITARY AND GOVERNMENT OFFICIALS UNIFORMLY CATEGORICALLY REJECTED THE ACCUSATIONS, POINTING OUT A NUMBER OF SPECIFIC FACTUAL ERRORS, ALTHOUGH SOME OFFICIALS ACKNOWLEDGED THE POSSIBILITY THAT ABUSES WERE COMMITTED BY INDIVIDUAL SECURITY FORCE PERSONNEL ACTING WITHOUT OFFICIAL SANCTION.

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10. ALTHOUGH THE BELAUNDE GOVERNMENT HAS TRIED TO PROMOTE HUMAN RIGHTS, IT APPEARS THAT SOME VIOLATIONS DID OCCUR IN 1983 IN THE COURSE OF THE GOVERNMENT'S STRUGGLE AGAINST THE TERRORISTS. THE BELAUNDE ADMINISTRATION HAS SAID HOWEVER, THAT IT WILL NOT CONDONE SUCH VIOLATIONS AND HAS REPORTEDLY TAKEN ACTIONS TO PREVENT THEM TAKING PLACE IN THE CONDUCT OF OPERATIONS IN THE EMERGENCY ZONE.

RESPECT FOR HUMAN RIGHTS

SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON,
[REDACTED]

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INCLUDING

FREEDOM FROM:

A. UNLAWFUL OR ARBITRARY DEPRIVATION OF LIFE

11. THE TERRORIST VIOLENCE THAT BEGAN IN PERU IN MAY 1980 ACCELERATED IN 1983. LOSSES AMONG THE TERRORISTS THEMSELVES INCREASED AS SECURITY FORCES TOOK COUNTER-MEASURES.

12. ALTHOUGH SENDERO LUMINOSO INITIALLY AIMED ITS VIOLENCE AT SELECTED TARGETS SUCH AS POLICE, GOVERNMENT AUTHORITIES, AND "EXPLOITATIVE" MERCHANTS AND LANDLORDS, IN 1983 IT EXPANDED ITS VIOLENCE WHICH LED TO A HIGHER CIVILIAN DEATH TOLL. THE WORST INCIDENT OCCURED IN EARLY APRIL IN THE EMERGENCY ZONE, WHEN A SENDERO-LED BAND NUMBERING SOME 200 PERSONS ATTACKED AND MASSACRED VILLAGERS IN THE ANDEAN COMMUNITY OF LUCANAMARCA. THE 67 PEOPLE WHO DIED THERE NEARLY DOUBLED THE CIVILIAN DEATH FIGURE OVER THE PRECEDING THREE YEARS. ON JULY 11 THE SENDERO ATTACKED THE RULING ACCION POPULAR PARTY HEADQUARTERS IN LIMA, KILLING THREE AND INJURING OTHERS.

13. THE AUTHORITIES' RESPONSE TO SENDERO'S ESCALATED ACTIVITY BOTH PRODUCED HIGHER LOSSES IN TERRORIST RANKS AND GENERATED CONTROVERSY. THE BULK OF THOSE TERMED "TERRORISTS" WERE KILLED IN WHAT THE SECURITY FO CALLED "ARMED CONFRONTATIONS" IN THE EMERGENCY ZONE. BUT AN AUGUST REPORT BY AMNESTY INTERNATIONAL ASSERTED THAT MANY OF THE DEAD WERE "EXTRAJUDICIALLY KILLED" SUBSEQUENT TO THEIR CAPTURE AND INTERROGATION. AMNESTY INTERNATIONAL SAID ITS REPORT WAS BASED ON "A BROAD

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RANGE" OF SOURCES, INCLUDING COMMUNICATIONS FROM
OPPOSITION POLITICIANS AND MEDIA REPORTS. IN MANY CASES
THESE SOURCES WERE AFFILIATED WITH MARXIST
ORGANIZATIONS. AMNESTY INTERNATIONAL ALSO BASED ITS
[REDACTED]

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REPORT IN PART ON OFFICIAL STATISTICS, INCLUDING
COMMUNIQUES ISSUED IN APRIL AND MAY BY THE EMERGENCY ZONE
POLITICAL MILITARY COMMAND WHICH REFERRED REPEATEDLY TO
DEATHS SUFFERED BY SENDERO IN "ARMED ENCOUNTERS" BUT MADE
NO MENTION OF TERRORISTS EITHER INJURED OR CAPTURED OR,
FOR THAT MATTER, OF SECURITY FORCE LOSSES. AMNESTY
INTERNATIONAL HELD THAT THESE STATISTICS INDICATED THAT
THOSE TAKEN PRISONER WERE SUBSEQUENTLY KILLED.
BUT THE NEWS WEEKLY CARETAS UNCOVERED ONE PERSON, ALIVE
AND WELL IN LIMA, WHO HAD BEEN REPORTED BY AMNESTY
INTERNATIONAL TO HAVE BEEN SHOT IN COLD BLOOD BY SECURITY
FORCES. THE AMNESTY INTERNATIONAL REPORT ALSO CITED
OTHER "EXTRAJUDICIAL KILLINGS" CARRIED OUT "BY OR WITH
THE ACQUIESCENCE OF GOVERNMENT AUTHORITIES." THIS
REFERRED TO THE DEATH, IN LATE JANUARY, OF EIGHT PERUVIAN
JOURNALISTS IN THE ISOLATED ANDEAN COMMUNITY OF
UCHURACCAY. A SPECIAL NON-PARTISAN INVESTIGATIVE
COMMISSION, APPOINTED BY THE PERUVIAN GOVERNMENT AND
HEADED BY AUTHOR MARIO VARGAS LLOSA, DETERMINED THAT THE
EIGHT DIED AT THE HANDS OF LOCAL VILLAGERS WHO, ACTING
UNDER THE CONVICTION THAT THE POLICE ENCOURAGED THEIR
DOING SO, RESOLVED BEFOREHAND TO KILL (PRESUMED)
TERRORISTS ENTERING THEIR COMMUNITIES. THE VARGAS LLOSA
COMMISSION STATED ITS ABSOLUTE CONVICTION THAT THE
POLITICAL MILITARY COMMAND DID NOT ENCOURAGE SUCH
VIGILANTE-TYPE ACTIONS ON A SYSTEMATIC BASIS, BUT TH
ISOLATED CASES SECURITY FORCES SUPPORTED SUCH ACTIONS.

B. DISAPPEARANCE

14. THE QUESTION OF DISAPPEARED PERSONS
("DESAPARECIDOS") BECAME A MAJOR POLITICAL ISSUE IN
AUGUST-SEPTEMBER, 1983. UNTIL THEN, CHARGES THAT
[REDACTED]

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SECURITY FORCES WERE RESPONSIBLE FOR THE DISAPPEARANCE
AND DEATH IN THE EMERGENCY ZONE OF PERSONS PRESUMED TO BE

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[REDACTED]
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TERRORISTS CAME SOLELY FROM POLITICAL AND PRESS FIGURES ON THE MARXIST LEFT. AMNESTY INTERNATIONAL'S AUGUST REPORT FOCUSED PUBLIC ATTENTION ON THE ISSUE, HOWEVER, AND LISTED SEVERAL CASES PRISONERS DESCRIBED AS "DISAPPEARED AND SUBSEQUENTLY FOUND DEAD." ALAN GARCIA, SECRETARY GENERAL OF PERU'S LEADING OPPOSITION PARTY, THE AMERICAN PEOPLE'S REVOLUTIONARY ALLIANCE, PAID A CAMPAIGN VISIT TO THE ZONE ON AUGUST 27 AND SUBSEQUENTLY ANNOUNCED THAT HE HAD BEEN PRESENTED THERE WITH A LIST OF SEVERAL HUNDRED SUPPOSED "DESAPARECIDOS." TWO WEEKS LATER, LIMA'S LEADING TELEVISION-DOCUMENTARY PROGRAM, "VISION," BROADCAST A REPORT ON THE SUBJECT CITING 160 CASES. THE PRESIDENT OF LIMA'S BAR ASSOCIATION ALSO EXPRESSED CONCERN ABOUT REPORTS OF DISAPPEARED PERSONS FOLLOWING A VISIT TO THE ZONE. GOVERNMENT OFFICIALS VEHEMENTLY DENIED THAT SECURITY FORCES WERE RESPONSIBLE FOR DISAPPEARANCES AND ASSERTED THAT SENDERO TERRORISTS CUSTOMARILY KILLED PERSONS THEY CARRIED OFF. SOME GOVERNMENT SPOKESMEN HELD THAT PERSONS WHO DISAPPEARED WERE SENDERO RECRUITS WHO, IF THEY WERE FOUND DEAD, DIED IN CONFRONTATIONS WITH THE POLICE OR MILITARY.

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

15. AS A MATTER OF LAW AND POLICY, PERU PROHIBITS TORTURE AND THE USE OF VIOLENCE AGAINST DETAINEES AND MAKES EVEN THE THREAT OF VIOLENCE OR COERCION A PUNISHABLE CRIMINAL OFFENSE. NEVERTHELESS, THERE WERE INCREASING ALLEGATIONS IN 1983, SOME OF WHICH APPEARED IN THE OPPOSITION MEDIA, THAT PRISONERESSED OF TERRORIST CRIMES HAD BEEN MISTREATED. ALTHOUGH MOST WERE CHARGES OF "THIRD-DEGREE"-TYPE PHYSICAL MISTREATMENT, THERE WERE SOME ALLEGATIONS APPEARING IN OPPOSITION MEDIA SPOKE OF

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ELECTRICAL SHOCK AND IMMERSION IN COLD WATER. MANY OF THE CHARGES REFERRED TO PERSONS HELD AT THE LOS CABITOS BARRACKS IN AYACUCHO, THE COMMAND POST FOR THE POLITICAL-MILITARY AUTHORITIES IN THE ZONE, WHERE INCIDENTS OF ABUSE WITHOUT OFFICIAL SANCTION ARE BELIEVED TO OCCUR. THE VARGAS LLOSA COMMISSION FELT "OBLIGED" TO POINT OUT THAT SECURITY FORCES HAD COMMITTED "EXCESSES," AND CARETAS' REBUTTAL OF CERTAIN AMNESTY INTERNATIONAL ALLEGATIONS ALSO INCLUDED CORROBORATION OF CHARGES OF

n/a
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OCCASIONAL PRISONER MISTREATMENT. DESPITE THE OFFICIAL POLICY OF RESPECT FOR HUMAN RIGHTS, QUESTIONS ABOUT THE PROPRIETY OF SECURITY FORCE BEHAVIOR IN COUNTERING THE SENDERO LUMINOSO ARE LIKELY TO PERSIST AS LONG AS STATE OF EMERGENCY PROVISIONS LEAVE CONSTITUTIONAL GUARANTEES SUSPENDED AND THE ROLE OF AUTONOMOUS PUBLIC MINISTRY REPRESENTATIVES CURTAILED.

16. THE 1983 FOOD BUDGET AT THE 6,000 PRISONER LARIGANCHO PRISON FOR COMMON CRIMINALS IN LIMA ALLOWED SOME 40 CENTS (U.S.) DAILY TO FEED EACH PRISONER.

D. ARBITRARY ARREST, DETENTION, OR EXILE

17. PERU'S 1979 CONSTITUTION REQUIRES THAT AN ARRESTEE BE ARRAIGNED WITHIN 24 HOURS FOR ALL CRIMES EXCEPT DRUG TRAFFICKING, TERRORISM, OR ESPIONAGE, FOR WHICH THE LIMIT IS 15 DAYS. ADMINISTRATIVE DIFFICULTIES SOMETIMES PRECLUDE THE 24-HOUR DEADLINE FROM BEING MET, BUT ARRAIGNMENT OCCURS IN A TIMELY MANNER. THE CONSTITUTION ALSO GUARANTEES HABEAS CORPUS, WHICH IS RESPECTED IN PRACTICE.

18. THESE PROCEDURES, HOWEVER, DID NOT APPLY TO PERSONS
[REDACTED]

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IN THE EMERGENCY ZONE SUSPECTED OF TERRORISM. AMNESTY INTERNATIONAL'S REPORT REFERRED TO SEVERAL CASES OF PERSONS WHO HAD "DISAPPEARED" BUT SUBSEQUENTLY WERE ACKNOWLEDGED TO BE IN MILITARY CUSTODY. OF THESE, THE MOST PROMINENT WAS THAT OF DR. JAIME URRUTIA, AN ANTHROPOLOGY PROFESSOR IN AYACUCHO AND VICE PRESIDENT OF THE AYACUCHO BRANCH OF THE NATIONAL COMMISSION FOR HUMAN RIGHTS, WHO WAS TAKEN FROM HIS HOME IN THE NIGHT OF MAY 5/6. HIS FAMILY SAID THAT MASKED MEN ABDUCTED HIM. THE POLICE DENIED RESPONSIBILITY FOR HIS DISAPPEARANCE AND SUGGESTED HE WAS THE VICTIM OF A KIDNAPPING, BUT THE LOCAL OFFICE OF THE INDEPENDENT PUBLIC MINISTRY (FISCALERIA) VERIFIED ON MAY 11 THAT HE WAS BEING HELD INCOMMUNICADO AT THE LOS CABITOS POLITICAL/MILITARY--COMMAND HEADQUARTERS IN AYACUCHO. THE FISCALERIA SUCCEEDED IN HAVING HIM TRANSFERRED TO POLICE CUSTODY ON MAY 14, AND HE WAS RELEASED ON MAY 21 WHEN THE PUBLIC PROSECUTOR ANNOUNCED THAT NO CHARGES WOULD BE BROUGHT AGAINST HIM.

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19. OFFICIAL STATISTICS ON DETENTIONS REPORTED THERE WERE 2,400 "DETAINEES" IN EARLY MAY, 2,630 IN MID-JULY, AND 2,120 IN MID-AUGUST. THE NUMBER OF PERSONS FORMALLY CHARGED WITH SPECIFIC TERRORIST OFFENSES AND THEN INCORPORATED INTO JUDICIAL STATISTICS, WAS SUBSTANTIALLY LOWER (658 IN MID-JUNE, SOME 900 IN JULY). PRESUMABLY MANY RELEASES OF DETAINEES HAVE GONE PUBLICLY UNREPORTED, BUT IT IS ALSO POSSIBLE THAT SOME PERSONS REPORTED AS "DISAPPEARED" IN THE EMERGENCY ZONE WERE AND POSSIBLY STILL ARE DETAINED BY THE SECURITY FORCES.

20. IT APPEARS THAT PERSONS DETAINED ON CHARGES OF TERRORISM EITHER ARE TRIED AND CONVICTED OF SPECIFIC VIOLENT ACTS OR ELSE ARE EVENTUALLY FREED WHEN THEY ARE FOUND INNOCENT, EITHER IN PRE-TRIAL INVESTIGATIONS OR IN THE JUDICIAL PROCESS. PERU DOES NOT PRACTICE EXILE UNDER [REDACTED]

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THE PRESENT GOVERNMENT; THERE WERE NO ALLEGATIONS OF EXILE IN 1983.

E. DENIAL OF FAIR PUBLIC TRIAL

21. THE PERUVIAN JUDICIARY IS INDEPENDENT OF THE EXEC IN BOTH LAW AND PRACTICE. THE NATIONAL COUNCIL OF THE MAGISTRACY, UNDER THE ATTORNEY GENERAL, SELECTS NOMINEES FOR JUDICIAL VACANCIES. APPOINTMENTS ARE FOR LIFE. ONLY SUPREME COURT JUSTICES REQUIRE LEGISLATIVE CONFIRMATION. CHARGES OF LOWER COURT MALFEASANCE ARE INVESTIGATED BY THE SUPREME COURT, WHILE THE NATIONAL COUNCIL OF THE MAGISTRACY INVESTIGATES ANY COMPLAINTS AGAINST THE SUPREME COURT ITSELF, AND TURNS THEN OVER TO THE ATTORNEY GENERAL IF THERE ARE GROUNDS FOR CHARGES. THE SUPREME COURT ITSELF HAS RESPONSIBILITY FOR FINAL ACTION.

22. ALL CIVIL CRIMES ARE TRIED IN CIVILIAN COURTS. ARRESTEES ARE ENTITLED TO HAVE AN ATTORNEY PRESENT WHEN THEY MAKE STATEMENTS TO THE POLICE. PUBLIC PROSECUTORS ARE CHARGED WITH ASSURING THAT DEFENDANTS HAVE LEGAL REPRESENTATION. THERE ARE NO PUBLIC DEFENDERS BELOW THE SUPERIOR COURT LEVEL, HOWEVER, AND INDIGENT ARRESTEES MUST RELY ON VOLUNTEERS FROM THE BAR ASSOCIATION, IF AVAILABLE. THE CONSTITUTION PRESUMES INNOCENCE, AND GUARANTEES A TRIAL REVIEW SYSTEM. THE FIRST IS A CLOSED

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JUDICIAL INVESTIGATION BY A MAGISTRATE, WHILE THE SECOND IS PUBLIC TRIAL IN SUPERIOR COURT FOR THOSE HELD FOR PROBABLE CAUSE AT THE LOWER LEVELS. THE SUPREME COURT HEARS FINAL APPEALS.

23. PERSONS ARRESTED FOR CRIMES FACE LONG PERIODS OF [REDACTED]

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DETENTION IN PRIMITIVE CONDITIONS WHILE THEIR CASES REMAIN UNDER INVESTIGATION; FOR INSTANCE, OF SOME 700 PERSONS ACCUSED OF TERRORISM BETWEEN MID-1980 AND MID-1983, ONLY 13 WERE FOUND GUILTY AND SENTENCED, AND 18 ABSOLVED AND SET FREE; THE REMAINDER WERE STILL BEING HELD AT THE END OF THAT PERIOD.

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

24. THE GOVERNMENT GENERALLY DOES NOT INTERFERE IN THE PRIVATE LIVES OF PERUVIANS, OTHER THAN THE RELATIVELY SMALL PROPORTION OF THE POPULATION IN THE EMERGENCY ZONE WHO ARE SUSPECTED BEING TERRORISTS. A JUDICIAL WARRANT IS REQUIRED TO ENTER A PRIVATE RESIDENCE, THE INVIOABILITY OF WHICH IS CONSTITUTIONALLY GUARANTEED. AUTHORITIES DO NOT MONITOR CORRESPONDENCE OR TELEPHONES, EXCEPT UNDER COURT SUPERVISION, OR ATTEMPT TO JAM RADIO BROADCASTS OR INTERFERE WITH THE RECEIPT OF FOREIGN PUBLICATIONS. THE GOVERNMENT PERMITS, ENCOURAGES AND ASSISTS THE PROMOTION OF INDIGENOUS LANGUAGES.

25. BUT THE "STATE OF EMERGENCY" PROVISION OF THE CONSTITUTION SUSPENDS THIS GUARANTEE, AND SECURITY AUTHORITIES IN THE EMERGENCY ZONE ROUTINELY VIELED THEMSELVES OF THIS SUSPENSION TO CONDUCT SEARCH OPERATIONS. THERE WERE ONLY A FEW ALLEGATIONS, HOWEVER, MOSTLY FROM LIMA, THAT POLICE EXERCISED THIS AUTHORITY DURING THE LIMITED PERIOD IN WHICH THE NATIONAL STATE OF EMERGENCY PREVAILED THROUGHOUT THE COUNTRY.

SECTION 2 RESPECT FOR CIVIL RIGHTS, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

26. THE PERUVIAN CONSTITUTION GUARANTEES AND THE [REDACTED]

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GOVERNMENT IN PRACTICE ALLOWS FREEDOM OF SPEECH AND OF THE PRESS. PRESIDENT BELAUNDE'S ADMINISTRATION CONSIDERS ITS REESTABLISHMENT OF A FULLY INDEPENDENT MEDIA, ACCOMPLISHED ITS FIRST DAY IN OFFICE, TO BE ONE OF ITS KEY ACHIEVEMENTS. PERUVIAN PUBLICATIONS REFLECT POLITICAL VIEWPOINTS ACROSS THE SPECTRUM. THE GOVERNMENT MAKES NO ATTEMPT TO CENSOR CRITICISM.

27. THERE WERE COMPLAINTS IN 1983 THAT THE POLITICAL-MILITARY COMMAND AUTHORITIES IN THE EMERGENCY ZONE INTERFERED WITH NEWS DISSEMINATION AND GATHERING. THE OPPOSITION NEWSPAPER REPUBLICA AND THEN MARXIST EL DIARIO DE MARKA ACCUSED AUTHORITIES OF DELAYING DISTRIBUTION OF NEWSPAPER EDITIONS AIR DELIVERED FROM LIMA TO AYACUCHO. COMMAND AUTHORITIES ORDERED THE DETENTION OF THE LATTER PUBLICATION'S CORRESPONDENTS IN AYACUCHO AND HUANTA (LARGEST CITIES IN THE ZONE) ON SEVERAL OCCASIONS. EACH CORRESPONDENT COMPLAINED HE WAS SUBJECT OF INSULTS, THREATS AND PHYSICAL-HARRASSMENT BY MILITARY OFFICIALS. THE AYACUCHO CORRESPONDENT OF THE LEFTIST WEEKLY EQUIS X ALLEGED THAT HE HAD BEEN ARRESTED BY MASKED MEN AND BEATEN. THESE CHARGES LED PERU'S NATIONAL PRESS ASSOCIATION TO REQUEST AN INVESTIGATION BY THE ATTORNEY GENERAL ABOUT RESTRICTIONS ON FREEDOM OF THE PRESS IN THE EMERGENCY ZONE. POLITICAL-MILITARY COMMAND AUTHORITIES DENIED MISTREATING JOURNALISTS-BUT EXPRESSED THEIR BELIEF THAT CERTAIN JOURNALISTS WERE AIDING THE TERRORIST CAUSE BY REPORTING ON EVENTS IN AN INTENTIONALLY BIASED AND INACCURATE FASHION. THE COLLEGE OF JOURNALISTS, THE PROFESSIONAL ASSOCIATION WITH TRIBUNAL POWERS, BROUGHT SUCH CHARGES AGAINST EL DIARIO DE MARKA. WHILE IT IS PROBABLE THAT OCCASIONAL OFFICIAL

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HARRASSMENT OF CERTAIN JOURNALISTS HAS TAKEN PLACE IN THE EMERGENCY ZONE, THE OMNIPRESENT DANGER OF VIOLENCE CONSTITUTED A FAR MORE SERIOUS IMPEDIMENT TO UNRESTRICTED NEWS GATHERING IN THE REGION.

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

28. THESE RIGHTS ARE GUARANTEED IN THE CONSTITUTION AND

n/a

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ARE NORMALLY RESPECTED. THE GOVERNMENT IS FORTHCOMING IN GRANTING PERMITS FOR DEMONSTRATIONS, AND, DESPITE OCCASIONAL INCIDENTS, FOR THE MOST PART DEALS WITH UNAUTHORIZED DEMONSTRATIONS IN A NONCONFRONTATIONAL MANNER.

29. THE RIGHT TO ASSEMBLY IS AMONG THOSE SPECIFICALLY SUSPENDED BY THE PROCLAMATION OF A STATE OF EMERGENCY BUT GOVERNMENT AUTHORITIES, INCLUDING THOSE IN THE EMERGENCY ZONE, RARELY USED THEIR POWER TO RESTRICT PUBLIC GATHERINGS. THE APPROACH OF THE NOVEMBER MUNICIPAL ELECTIONS, AND THE CORRESPONDING NEED TO ASSURE CANDIDATES FULL OPPORTUNITY TO CAMPAIGN, LED THE GOVERNMENT NOT TO SEEK RENEWAL OF THE NATIONAL STATE OF EMERGENCY WHEN IT EXPIRED ON SEPTEMBER 9. FOR ITS PART, THE POLITICAL-MILITARY COMMAND ANNOUNCED IT WOULD TAKE SPECIAL MEASURES TO PROTECT CANDIDATES RUNNING FOR OFFICE IN THE EMERGENCY ZONE AND ASSURE THEIR FREEDOM TO HOLD PUBLIC RALLIES.

THE CONSTITUTION GUARANTEES PRIVATE SECTOR WORKERS THE RIGHT TO ORGANIZE, BARGAIN COLLECTIVELY, AND STRIKE. PUBLIC SECTOR WORKERS (EXCEPT FOR ARMED FORCES, JUDGES, AND HIGH OFFICIALS) HAVE SIMILAR RIGHTS, ALTHOUGH THERE ARE SOME RESTRICTIONS. IN PRACTICE, EMPLOYEES ORGANIZE AND STRIKE FREELY. LEGISLATION TO REGULATE THE RIGHT TO STRIKE IS STILL UNDER CONSIDERATION IN CONGRESS.

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30. ABOUT TEN PERCENT OF THE WORK FORCE IS ORGANIZED AND TOTAL MEMBERSHIP IN COMMUNIST AND OTHER FAR LEFT UNIONS IS SOMEWHAT LARGER THAN THAT OF DEMOCRATICALLY-ORIENTED UNIONS. NO SIGNIFICANT PART OF THE LABOR MOVEMENT IS TIED TO THE GOVERNMENT. UNIONS GENERALLY ARE NOT FORMALLY LINKED WITH POLITICAL PARTIES, BUT IMPORTANT NATIONAL CONFEDERATIONS ARE IDENTIFIED WITH PARTICULAR POLITICAL TENDENCIES. THERE IS NO GOVERNMENT PERSECUTION OF UNIONS OR PROFESSIONAL GROUPS. PERUVIAN LABOR ORGANIZATIONS AFFILIATE FREELY WITH REGIONAL AND INTERNATIONAL TRADE UNION ORGANIZATIONS OF ALL IDEOLOGICAL TENDENCIES.

31. UNION LEADERS ARE FREQUENTLY CONSULTED BY THE PRESIDENT, THE PRIME MINISTER, AND THE MINISTER OF LABOR,

[REDACTED]
n/a

[REDACTED]
n/a

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AS WELL AS BY CONGRESSIONAL COMMITTEES. A NATIONAL LABOR COUNCIL WAS ESTABLISHED IN 1982 TO PROVIDE A MEANS TO ENHANCE AND FORMALIZE LABOR AND EMPLOYER PARTICIPATION IN SOCIAL AND ECONOMIC POLICY.

C. FREEDOM OF RELIGION

32. THE ROMAN CATHOLIC FAITH IS OVERWHELMINGLY PREDOMINANT IN PERU, AND THE CONSTITUTION FORMALLY RECOGNIZES THE CHURCH'S IMPORTANCE. IT ALSO ESTABLISHES THE INDEPENDENCE OF CHURCH AND STATE, WHICH IS RESPECTED IN PRACTICE, AND GUARANTEES FREEDOM OF RELIGION AND CONSCIENCE. MEMBERS OF MINORITY RELIGIONS ENCOUNTER NO DIFFICULTY IN PRACTICING THEIR FAITH NOR 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

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TRAVEL,
EMIGRATION, AND REPATRIATION

33. THE CONSTITUTION GUARANTEES THE RIGHT OF FREE MOVEMENT. THERE ARE NO POLITICAL OR LEGAL CONSTRAINTS ON FOREIGN TRAVEL OR EMIGRATION. FREEDOM OF MOVEMENT IS LIMITED IN THE EMERGENCY ZONE BECAUSE OF THE DANGER OF TRAVELING OUTSIDE OF POPULATED CENTERS.

34. TRADITIONALLY, PERU HAS BEEN WILLING TO RECEIVE LIMITED NUMBERS OF REFUGEES FOR BOTH TRANSIT AND RESETTLEMENT, AND PERUVIAN EMBASSIES HAVE BEEN GENEROUS IN GRANTING ASYLUM. PERUVIAN POLICY CONTINUES TO BE NOT TO RETURN REFUGEES TO THE COUNTRIES FROM WHICH THEY FLED, IN SPITE OF WIDESPREAD RESENTMENT AT PROBLEMS ENCOUNTERED IN ASSIMILATING SEVERAL HUNDRED CUBAN REFUGEES IN LIMA.

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

35. PERU IS A DEMOCRATIC COUNTRY GOVERNED BY A FREELY-ELECTED PRESIDENT AND CONGRESS. THE CONSTITUTION MANDATES UNIVERSAL SUFFRAGE FOR ALL PERUVIANS (EXCEPT ARMED FORCES MEMBERS) 18 YEARS OF AGE AND OLDER. THE

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POLITICAL PROCESS IS COMPLETELY OPEN AND VIGOROUSLY CONTESTED BY A BROAD VARIETY OF POLITICAL GROUPS, ANY OF WHICH CITIZENS CAN JOIN WITHOUT GOVERNMENT INTERFERENCE. LEADERSHIP OF THE VARIOUS PARTIES TENDS TO REMAIN-LARGELY IN THE HANDS OF URBAN ELITES BECAUSE OF THEIR EDUCATIONAL AND FINANCIAL ADVANTAGES. INDIANS AND PERU'S SMALL BLACK COMMUNITY ARE UNDERREPRESENTED AT TOP LEVELS.

36. THE GOVERNING PARTY WITH ITS COALITION PARTNER HAS A WORKING MAJORITY IN BOTH HOUSES OF CONGRESS. MUNICIPAL ELECTIONS TOOK PLACE FREELY IN NOVEMBER. CONGRESSIONAL

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AND PRESIDENTIAL ELECTIONS ARE NEXT SCHEDULED 1985. THE CONSTITUTION PROHIBITS THE INCUMBENT PRESIDENT FROM SUCCEEDING HIMSELF.

37. CONSTITUTIONAL PROVISIONS GUARANTEE PARTICIPATION IN THE POLITICAL PROCESS TO ALL, REGARDLESS OF RACE OR SEX. TRADITION, NEVERTHELESS, IMPEDES THE ACCESS OF BOTH WOMEN AND MEMBERS OF "MINORITY" GROUPS TO LEADERSHIP ROLES IN MAJOR SOCIAL AND POLITICAL INSTITUTIONS. TWO WOMEN CURRENTLY HOLD SEATS IN THE SENATE, WHILE TWELVE ARE SERVING AS DEPUTIES. THERE ARE NO WOMEN OFFICERS IN ANY OF THE THREE NATIONAL POLICE SERVICES, OR IN THE SEVERAL BRANCHES OF THE ARMED FORCES. THE ARMY IS THE MOST INTEGRATED OF THE MILITARY SERVICES AND THE MOST REPRESENTATIVE OF PERU'S RACIALLY VARIED POPULACE. THERE ARE FEW MEMBERS OF MINORITIES IN THE UPPERMOST RANKS OF THE NAVY OR AIR FORCE, ALTHOUGH IN THE CASE OF THE AIR FORCE PROMOTION OF MORE JUNIOR MINORITY OFFICERS IS LIKELY TO INCREASE THEIR REPRESENTATION OVER TIME.

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

38. AMNESTY INTERNATIONAL'S AUGUST REPORT ON ALLEGED HUMAN RIGHTS VIOLATIONS IN PERU TOUCHED A SENSITIVE-NERVE. GOVERNMENT LEADERS, WHO HAVE PERMITTED PRIVATE ORGANIZATIONS TO INVESTIGATE SUCH ALLEGATIONS, RESPONDED WITH CHARGES THAT AMNESTY INTERNATIONAL'S REPORT CONTAINED ERRORS AND THAT THE ORGANIZATION ITSELF WAS

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PARTIAL TO COMMUNIST CAUSES.
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39. SPOKESMEN FOR THE HUMAN RIGHTS COMMITTEES OF THE TWO HOUSES OF CONGRESS SUPPORTED GOVERNMENT REPUTATIONS OF AMNESTY INTERNATIONAL'S CHARGES BUT INDIVIDUAL OPPOSITION MEMBERS OF THESE BODIES SUPPORTED THE AMNESTY INTERNATIONAL CHARGES OF SECURITY FORCE ABUSES. PRIVATE HUMAN RIGHTS GROUPS SIMILARLY WERE FREE TO AIR THEIR VIEWS AND ALLEGATIONS IN THE MEDIA. THERE IS NO EVIDENCE THAT ANY OF THESE GROUPS OR PERSONS PUT THEMSELVES AT RISK OF REPRISAL FROM THE GOVERNMENT BY ACTING IN THIS MANNER.

40. THE INDEPENDENT PUBLIC MINISTRY, IN ADDITION TO ITS DIRECT ROLE IN ENSURING PROPER TREATMENT OF THOSE ARRESTED, RECEIVES CITIZEN COMPLAINTS DIRECTED AGAINST OTHER BRANCHES OF THE GOVERNMENT, INVESTIGATING AND ACTING AS NECESSARY. ALTHOUGH MILITARY AUTHORITIES IN THE EMERGENCY ZONE ASSUMED POWERS NORMALLY RESERVED TO CIVIL OFFICIALS, PUBLIC MINISTRY REPRESENTATIVES IN THE ZONE CONTINUED TO FUNCTION AUTONOMOUSLY AND RECEIVE COMPLAINTS ON ALL ISSUES INCLUDING HUMAN RIGHTS.

41. PERU SUPPORTS HUMAN RIGHTS CAUSES IN INTERNATIONAL FORUMS BUT MAINTAINS A LOW OFFICIAL PROFILE. MOST PERUVIAN DECLARATIONS ON INTERNATIONAL HUMAN RIGHTS ISSUES TAKE THE FORM OF EDITORIAL COMMENT IN THE PRESS AND PUBLIC COMMENT BY ELECTED PARTY AND POLITICAL FIGURES.

ECONOMIC, SOCIAL, AND CULTURAL SITUATION

42. PROPERTY RIGHTS ARE PROTECTED IN PERU, ALTHOUGH THE CIVIL CODE CONTINUES TO DENY WOMEN THE EQUALITY IN THIS AREA WHICH THE CONSTITUTION PRESCRIBES.

PERU, COMPOSED OF COMPLETELY DISTINCT GEOGRAPHIC REGIONS, IS A CLASSIC CASE OF DIFFERENTIAL DEVELOPMENT. PUBLIC

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INVESTMENT TRADITIONALLY HAS BEEN FOCUSED ON THE COAST, DRAWING MIGRANTS TO THE CITIES, MORE ESPECIALLY LIMA: THE ONE-THIRD OF THE POPULATION IN THE CAPITAL AREA ACCOUNTS FOR TWO-THIRDS OF GROSS DOMESTIC PRODUCT (GDP). MANY

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INDIANS LIVE IN PERU'S POOREST REGIONS IN THE MOUNTAINS, AND THE COST OF PROVIDING SERVICES TO AREAS REMOTE FROM THE MAINSTREAM OF CULTURE AND THE CENTERS OF ECONOMIC ACTIVITY IMPEDES DEVELOPMENT EFFORTS. AS A RESULT OF THIS DICHOTOMY AND OF HISTORICAL PREJUDICES, THE ECONOMIC AND SOCIAL NEEDS OF PERUVIANS OF EUROPEAN ANCESTRY ARE MORE LIKELY TO BE MET THAN THOSE OF PERUVIANS OF MIXED OR PURE INDIAN HERITAGE.

43. THE PREVIOUS MILITARY GOVERNMENT MADE SIGNIFICANT EFFORTS TO RECTIFY THITUATION. THE INITIAL GOAL OF THE BELAUNDE ADMINISTRATION -- TO PROVIDE FOR SUSTAINABLE AND, CONTINUING THE MILITARY THRUST, EQUITABLE ECONOMIC DEVELOPMENT -- HAS BEEN OVERWHELMED BY AUSTERITY MEASURES TAKEN BECAUSE PERU'S DIFFICULT ECONOMIC SITUATION. REFORMS OF THE MILITARY GOVERNMENT'S STATIST ECONOMIC POLICIES WERE SLOWED IN 1983 BY THE NEED TO CLOSELY CONTROL EXPENDITURES. DEPRESSED WORLD ECONOMIC CONDITIONS, PRODUCTION REDUCED BY CLIMATIC CATASTROPHE, AND HIGH REAL INTEREST RATES ON THE FOREIGN DEBT ALL LIMITED THE GOVERNMENT'S ABILITY TO RESPOND EFFECTIVELY TO THE NEED FOR IMPROVED LIVING CONDITIONS AND JOB OPPORTUNITIES.

44. PERU'S POPULATION, GROWING 2.8 PERCENT YEARLY, REACHED OVER 19 MILLION IN 1983. GDP PER CAPITA WAS ABOUT \$1,121 IN 1981 IN CURRENT TERMS, ALTHOUGH IT HAS SINCE DROPPED AS GDP GREW MINIMALLY IN 1982 AND DECLINED IN REAL TERMS BY ABOUT TEN PERCENT IN 1983. MEDIAN PER

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CAPITA INCOME WAS ESTIMATED IN MID-1982 AT \$640 IN LIMA AND \$600 IN OTHER MAJOR CITIES; IN THE RURAL AREAS, IT IS LOWER. MANY OTHER INDICES ILLUSTRATE PERU'S RELATIVE POVERTY. IN 1980, LIFE EXPECTANCY AT BIRTH WAS SLIGHTLY OVER 58 YEARS, WHILE THE INFANT MORTALITY RATE WAS 80.9 PER THOUSAND BIRTHS IN 1983. DATA FROM 1978 SHOW THAT ONLY 25 PERCENT OF THE RURAL POPULATION HAD ACCESS TO POTABLE WATER SOURCES, WHILE 60 PERCENT OF URBAN DWELLERS DID.

45. A 1977 STUDY SHOWED THAT PERUVIANS OBTAINED 97.55 PERCENT OF THEIR CALORIC NEEDS. IN 1978, THE ADJUSTED PRIMARY SCHOOL ENROLLMENT RATIO STOOD AT 112, WITH THE RATIO FOR MALES SLIGHTLY ABOVE THAT FOR FEMALES. ABOUT

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73 PERCENT OF THE ADULT POPULATION WAS LITERATE IN 1972 (THE LAST YEAR FOR WHICH DATA IS AVAILABLE); THIS FIGURE PROBABLY IMPROVED IN THE SUCCEEDING DECADE.

46. THE DEVELOPMENTAL ACHIEVEMENTS OF PRESIDENT BELAUNDE'S ADMINISTRATION HAVE BEEN LIMITED BY A VARIETY OF FACTORS. AUSTERITY PROGRAMS, ESSENTIAL FOR ECONOMIC RECOVERY, CREATE TEMPORARY HARDSHIP FOR THE UN- OR UNDER-EMPLOYED (ABOUT 60 PERCENT OF THE WORK FORCE), WHO DEPEND ON EXPANDING ACTIVITY FOR NEW OPPORTUNITIES, AS WELL AS FOR THE EMPLOYED, WHOSE WAGES HAVE DECLINED IN REAL TERMS. DAM

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