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Case Number: S200200010

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E.O. 12356: DECL: OADR
TAGS: PGOV, SHUM, PE
SUBJECT: PERU: REVIEW OF HUMAN RIGHTS SITUATION

REFS: (A) STATE 255972, (B) LIMA 6564, (C) LIMA 10542,
(D) LIMA 10652, (E) LIMA 10721

1. [REDACTED] - ENTIRE TEXT.

2. FOLLOWING IS HUMAN RIGHTS REVIEW REQUESTED FOR
ASSISTANT SECRETARY ABRAMS' CONGRESSIONAL TESTIMONY
(REF A).

3. INTRODUCTION AND SUMMARY: DURING 1985, TWO
PERUVIAN ADMINISTRATIONS HAVE GRAPPLED WITH TASK OF
IMPROVING HUMAN RIGHTS AND CONSOLIDATING DEMOCRATIC
LIBERTIES IN THE CONTEXT OF CONTINUING VIOLENCE FROM
COMMUNIST AND NARCOTICS TERRORISTS, INCIDENTS OF ARMED
FORCES MEMBERS INVOLVED IN ATROCITIES, OVERLOADED
JUDICIAL AND PENAL INSTITUTIONS, AND A DISMAL ECONOMIC
SITUATION. OVERALL TRENDS IN 1985 HAVE BEEN ENCOURAGING:
FREE AND FAIR ELECTIONS WERE HELD IN APRIL, LEADING
TO THE FIRST TRANSFER OF POWER IN JULY FROM ONE
CONSTITUTIONALLY ELECTED PRESIDENT TO ANOTHER IN 40 YEARS;
BETWEEN JANUARY AND JULY THERE WAS A DRAMATIC DECLINE
IN ALLEGED DISAPPEARANCES, ACCORDING TO INDEPENDENT

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HUMAN RIGHTS ORGANIZATIONS; AND PRESIDENT GARCIA HAS

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TAKEN SEVERAL IMPORTANT MEASURES ON HUMAN RIGHTS, INCLUDING HIS SWIFT AND FIRM RESPONSE TO ALLEGATIONS--LATER CONFIRMED--THAT MEMBERS OF THE SECURITY FORCES HAD CARRIED OUT EXTRAJUDICIAL KILLINGS IN AUGUST IN THE AYACUCHO EMERGENCY ZONE. HOWEVER, HUMAN RIGHTS PROBLEMS REMAIN, INCLUDING DISAPPEARANCES, EXTRAJUDICIAL KILLINGS, PRISON CONDITIONS, JUDICIAL PROCEDURES, AS WELL AS TERRORIST ASSASSINATIONS AND S. GARCIA ADMINISTRATION HAS IDENTIFIED CORRECTLY AREAS FOR IMPROVEMENT IN HUMAN RIGHTS AND HAS BEGUN TO ADDRESS THEM. WE BELIEVE THESE EFFORTS ARE COMMENDABLE AND WARRANT CONTINUED SUPPORT FROM THE USG AND THE INTERNATIONAL COMMUNITY. END SUMMARY.

4. FOLLOWING ARE KEY DEVELOPMENTS IN PERUVIAN HUMAN RIGHTS SITUATION IN 1985:

POLITICAL KILLING: POLITICALLY MOTIVATED KILLINGS HAVE CONTINUED, CONCENTRATED IN THE AYACUCHO EMERGENCY ZONE (EZ), AND THE TINGO MARIA/HUANUCO (UPPER HUALLAGA) EZ. THE SENDERO LUMINOSO (SL) TERRORIST GROUP HAS CONTINUED KILLINGS IN BOTH EZ'S, TARGETTING RECALCITRANT CAMPESINOS, CIVILIAN OFFICIALS, AND MEMBERS OF THE POLICE AND SECURITY FORCES. SITUATION IN TINGO MARIA EZ IS OBSCURED BY PRESENCE OF NARCOTRAFFICKERS, WHO PERIODICALLY SETTLE ACCOUNTS WITH EACH OTHER AS WELL AS CIVILIANS AND POLICE, POSSIBLY ATTEMPTING TO PIN THE BLAME FOR SUCH MURDERS ON OTHERS. SL ALSO CARRIED OUT NUMEROUS ASSASSINATIONS AND INDISCRIMINATE CAR BOMBINGS IN URBAN AREAS, ESPECIALLY IN LIMA. AS NOTED IN OUR MID-YEAR REVIEW OF HUMAN RIGHTS (REF B), WE BELIEVE THAT, IN GENERAL, THE SECURITY FORCES HAVE BEEN MAKING A CONCERTED

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EFFORT TO AVOID ABUSES. WE BELIEVE THAT INCREASING PRESSURE WITHIN AND WITHOUT PERU, STIMULATED BY PERIODIC OUTSIDE REPORTS--INCLUDING AMNESTY INTERNATIONAL'S JANUARY 1985 REPORT--CONTRIBUTED TO THESE EFFORTS BY THE SECURITY FORCES. HOWEVER, MEMBERS OF THE SECURITY FORCES HAVE RESPONDED ON AT LEAST TWO OCCASIONS WITH EXCESSIVE VIOLENCE OF THEIR OWN, CARRYING OUT EXTRAJUDICIAL KILLINGS OF SEVEN PERSONS IN PUCAYACU AND AT LEAST 40 IN ACCOMARCA (SEE REFS C, D, AND E).

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IN ADDITION, THERE ARE ALLEGATIONS THAT CAMPESINO SELF-DEFENSE GROUPS ("RONDEROS"), SOMETIMES CREATED BY THE SECURITY FORCES, HAVE KILLED OR TORTURED ALLEGED TERRORISTS THEY HAVE CAPTURED. ONE NEWS MAGAZINE D THE LYNCHING DEATHS OF TWO ALLEGED SL MEMBERS IN MARCAS, HUANCVELICA ON AUGUST 29, FOLLOWING SL ATTACKS THAT KILLED SIX VILLAGERS.

5. THE NEW GOP HAS EMPHASIZED ITS REJECTION OF EXTRA-JUDICIAL KILLINGS. IT REACTED SWIFTLY AND FIRMLY FOLLOWING THE ALLEGATIONS OF VIOLATIONS IN PUCAYACU AND ACCOMARCA, ORDERING MILITARY INVESTIGATIONS WITHIN A SHORT TIME FRAME (3 AND 7 DAYS, RESPECTIVELY). ONCE THE MILITARY ACKNOWLEDGED THE INVOLVEMENT OF 3 MILITARY MEMBERS IN PUCAYACU SLAYINGS, GARCIA REMOVED ARMED FORCES JOINT COMMAND CHIEF, GENERAL CESAR ENRICO. AFTER SUBSEQUENT REVELATION THAT MILITARY MEMBERS WERE ALSO RESPONSIBLE FOR ACCOMARCA MASSACRE, GARCIA HAD TWO HIGHRANKING ARMY GENERALS RESPONSIBLE FOR AYACUCHO EZ-- GENERALS JARAMA AND MORI--RELIEVED OF COMMAND. THE MILITARY HAS IDENTIFIED FIVE INDIVIDUALS RESPONSIBLE FOR PUCAYACU/ACCOMARCA DEATHS, AND HAS SAID THEY WILL STAND

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TRIAL. THE PUBLIC HAS APPLAUDED GARCIA'S RESPONSE AS COURAGEOUS AND CORRECT.

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6. DISAPPEARANCES: ACCORDING TO PRELIMINARY DATA ASSEMBLED BY THE INDEPENDENT HUMAN RIGHTS COMMISSION (CONADEH), SUPPORTED BY CONVERSATIONS WITH THE EPISCOPAL SOCIAL ACTION COMMISSION (CEAS) AND THE ASSOCIATION FOR HUMAN RIGHTS (APRODEH), ALLEGED DISAPPEARANCES DECREASED MARKEDLY BETWEEN JANUARY AND JULY (DATE OF LATEST AVAILABLE DATA). REPORTED DISAPPEARANCES TOTALLED 40 IN JANUARY, 62 IN FEBRUARY, 30 IN MARCH, 25 IN APRIL, 18 IN MAY, 4 IN JUNE, AND 2 IN JULY (TOTAL OF 181). NEVERTHELESS, THE FACT THAT THE SEVEN PERSONS KILLED BY SECURITY FORCES IN PUCAYACU HAD ALL BEEN DETAINED JUST PRIOR TO THEIR DEATHS INDICATES THAT DISAPPEARANCES CONTINUE TO BE AN IMPORTANT PROBLEM, NOTWITHSTANDING REPORTED DECREASE IN OCCURRENCE. AGAIN, NEW GOP HAS MADE CLEAR ITS VIEW THAT COUNTERTERRORIST FIGHT MUST BE WAGED WITH RESPECT FOR LAW AND HUMAN RIGHTS. ITS RESPONSE TO PUCAYACU SHOULD BACK UP THIS

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MESSAGE.

7. TORTURE AND CRUEL OR DEGRADING TREATMENT: BASIC SITUATION HAS NOT CHANGED SINCE LAST HUMAN RIGHTS REPORT. BOTH BELAUNDE AND GARCIA ADMINISTRATIONS REJECTED USE OF TORTURE. HOWEVER, SECURITY FORCES REPORTEDLY TORTURED PUCAYACU VICTIMS AS WELL AS THOSE IN ACCOMARCA, WHERE WITNESSES ALLEGE THAT SOLDIERS RAPED SEVERAL WOMEN BEFORE SHOOTING AND BURNING THE 40 PLUS VICTIMS. INDEPENDENT RIGHTS GROUPS REMAIN CONCERNED ABOUT MISTREATMENT OF PRISONERS. RAPID INCREASE IN DETAINEES HAS LED TO SEVERE OVERCROWDING IN PRISONS AND HAS EXACERBATED SANITARY AND NUTRITION PROBLEMS IN THESE INSTITUTIONS. GARCIA ADMINISTRATION'S REACTION TO PUCAYACU AND ACCOMARCA SHOULD GIVE WEIGHT TO ITS REJECTION OF TORTURE OR MISTREATMENT OF DETAINEES AND ITS INTENT TO PUNISH OFFENDERS. ONGOING GOP PURGE OF PERUVIAN POLICE SERVICES (MARKED BY THE DISMISSAL OF ABOUT 50 POLICE GENERALS AND OVER 100 OTHER OFFICERS), WHICH SEEKS TO CORRECT POLICE CORRUPTION AND ABUSES, ALSO SHOULD HAVE POSITIVE EFFECT ON TREATMENT OF DETAINEES. GOP HAS SIGNALLED INTENT TO IMPROVE PRISON CONDITIONS, ALTHOUGH LACK OF RESOURCES IS AN IMPEDIMENT IN THIS REGARD. GOP ALSO DESIRES TO REDRESS THIS PROBLEM BY SPEEDING UP

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TRIAL PROCESS FOR PRISONERS, MAJORITY OF WHOM HAVE NOT BEEN SENTENCED.

8. DENIAL OF FAIR PUBLIC TRIAL: AGAIN, BASIC SITUATION HAS NOT CHANGED SINCE 1985 HUMAN RIGHTS REPORT. NEW GOP IS GENUINELY APPALLED BY LARGE NUMBER OF PERSONS IN JAIL AWAITING TRIAL OR FINAL SENTENCING (APPROXIMATELY 15,000 OF THE 22,000 PRISONERS).

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ACCUSED CRIMINALS FREQUENTLY ARE DETAINED FOR TWO OR THREE YEARS PENDING TRIAL. IN SEPTEMBER, GOP ORDERED 50 PROSECUTORS TO REPORT FOR EXTRA DUTY AT ONE PRISON IN ORDER TO SPEED UP TRIAL PROCESS. IN HIS INAUGURAL ADDRESS, THE PRESIDENT ALSO SIGNALLED HIS DESIRE TO FREE A NUMBER OF PERSONS SENTENCED OR ACCUSED ERRONEOUSLY OF TERRORIST ACTIVITIES. (MAJORITY OF INDIVIDUALS APPEAR TO BE MEMBERS OF THE UNITED LEFT; THEIR NUMBER IS ESTIMATED TO BE BETWEEN 100 TO 400.) ON SEPTEMBER 14, GARCIA ANNOUNCED THE FORMATION OF THE LONG-AWAITED PEACE COMMISSION, WHICH WILL STUDY POSSIBLE PARDONS FOR SUCH PRISONERS. (MAIN OBJECTIVE OF COMMISSION, HOWEVER, WILL BE TO ATTEMPT TO ESTABLISH DIALOGUE WITH TERRORISTS.) ALSO SUGGESTED NEED FOR JUDICIAL REFORM TO SPEED UP TRIAL PROCESS, BUT HAS NOT YET COME OUT WITH CONCRETE PROPOSALS. EMBASSY OFFICIALS HAVE MET WITH MINISTRY OF JUSTICE REPRESENTATIVE TO DISCUSS POSSIBLE USG SUPPORT FOR AN ADMINISTRATION OF JUSTICE PROJECT. GARCIA HAS DENIED STEADFASTLY THAT THERE ARE "POLITICAL" PRISONERS IN PERU, AND FIRED THE HEAD OF THE COUNTRY'S PRISONS WHEN THE LATTER DISAGREED PUBLICLY. FINALLY, IN AN INTERESTING PILOT PROGRAM, GOP HAS OPENED FREE LEGAL CLINICS IN POORER NEIGHBORHOODS OF LIMA.

9. CIVIL RIGHTS: EXCELLENT OVERALL SITUATION REFLECTED IN LAST HUMAN RIGHTS REPORT CONTINUES. NEW GOP REPEALED LAW ON INSULT OF AUTHORITY BY THE PRESS (LEY DE DESACATO), WHICH HAS MET FAVORABLE RESPONSE BY JOURNALISTS. THERE IS CONCERN IN SOME QUARTERS, HOWEVER, ABOUT THE CONTINUED "STATE OF EMERGENCY" IN 24 PROVINCES WHERE TERRORISTS AND NARCOTRAFFICKERS HAVE BEEN ESPECIALLY ACTIVE. THE STATE OF EMERGENCY

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E.O. 12356: DECL: OADR
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SUSPENDS CONSTITUTIONAL GUARANTEES ON THE NEED FOR A SEARCH WARRANT TO ENTER PRIVATE HOMES; FREEDOM OF MOVEMENT; FREEDOM OF ASSEMBLY; AND EFFECTIVELY SUSPENDS HABEAS CORPUS. CRITICS CHARGE THAT IN EMERGENCY ZONES, MILITARY IS NOT RESPONSIVE TO LOCAL CIVILIAN AUTHORITIES.

10. POLITICAL RIGHTS: THIS YEAR WITNESSED THE FIRST TRANSFER OF POWER IN PERU BETWEEN TWO DEMOCRATICALLY ELECTED PRESIDENTS IN 40 YEARS. NOTWITHSTANDING TERRORIST VIOLENCE AGAINST THE ELECTIONS (INCLUDING THE ATTEMPTED MURDER OF THE PRESIDENT OF THE NATIONAL ELECTORAL BOARD), THE CAMPAIGN AND APRIL 14 ELECTIONS PROCEEDED RELATIVELY SMOOTHLY AND WITHOUT MAJOR IRREGULARITIES. PERUVIANS WENT MASSIVELY TO THE POLLS, ELECTING A PRESIDENT FROM THE CENTER-LEFT APRISTA PARTY, AND A CONGRESS WHOSE MEMBERSHIP RANGES FROM CONSERVATIVE TO COMMUNIST. THE ELECTIONS AND PEACEFUL TRANSFER OF POWER REPRESENT A TRIUMPH FOR THE DEMOCRATIC SYSTEM AS WELL AS FOR THE DEPARTING BELAUNDE ADMINISTRATION, WHICH HAD MADE THIS A KEY GOAL. WE NOTE THAT THE SENATE HUMAN RIGHTS

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COMMISSION HAS BEEN PARTICULARLY ACTIVE IN INVESTIGATING HUMAN RIGHTS ABUSES.

11. TERRORISM AND THE GOP RESPONSE: THE HUMAN RIGHTS SITUATION IN PERU IS CONNECTED CLOSELY TO TERRORISM AND THE GOP'S RESPONSE. TO THE EXTENT THE GOP CAN CARRY OUT AN EFFECTIVE COUNTERTERRORIST POLICY, IT WILL ALSO CONTRIBUTE TO IMPROVING HUMAN RIGHTS SITUATION. W GOP'S STRATEGY CONTAINS SEVERAL ELEMENTS:

-- CONTINUED MILITARY EFFORTS AGAINST TERRORISTS' RURAL BASES IN THE EZ'S, BUT WITH INCREASED EMPHASIS (IN THE WAKE OF PUCAYACU AND ACCOMARCA) ON PREVENTING ABUSES BY SECURITY FORCES. (MILITARY MAY ALSO SEEK TO AUGMENT CIVIC ACTION PROJECTS AND ESTABLISHMENT OF CAMPESINO SELF-DEFENSE FORCES.)

-- INCREASED ECONOMIC ASSISTANCE TO THE EZ AREAS. IN ADDITION, AYACUCHO REGION SHOULD BENEFIT FROM GOP'S GENERAL POLICIES THAT AIM TO BENEFIT THE POOR AND THE RURAL AREAS, PARTICULARLY IN THE SIERRA.

-- WHILE REFUSING NEGOTIATION WITH TERRORISTS, THE GOP RECENTLY ESTABLISHED A PEACE COMMISSION COMPOSED OF SIX NON-GOP INDIVIDUALS, INCLUDING ONE MEMBER OF THE CATHOLIC CHURCH HIERARCHY. THE COMMISSION WILL SEEK TO ESTABLISH A DIALOGUE WITH TERRORISTS WITH A VIEW TO RE-INTEGRATING THEM INTO DEMOCRATIC SOCIETY, AND WILL STUDY QUESTIONS OF PARDONS AND AMNESTY.

12. COMMENT: WE BELIEVE THAT EVENTS THUS FAR THIS YEAR INDICATE IMPROVEMENTS IN THE HUMAN RIGHTS AREA.

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ALTHOUGH SIGNIFICANT PROBLEMS REMAIN, WE BELIEVE THAT THE GARCIA ADMINISTRATION HAS, IN ITS SHORT TENURE, BEGUN TO IDENTIFY AND ADDRESS THEM. HOWEVER, A MAJOR SOURCE OF ABUSES--TERRORIST VIOLENCE--REMAINS, AND PROBABLY CANNOT BE CONTROLLED IN THE SHORT TERM. WE BELIEVE THE GARCIA ADMINISTRATION'S EFFORTS TO DATE ARE PRAISEWORTHY AND DESERVE CONTINUED SUPPORT FROM THE USG AND THE INTERNATIONAL COMMUNITY. YOULE

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