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INQUIRE=DOC20D
ITEM NO=00274895

ENVELOPE

CDSN = LGX106 MCN = 92363/25519 TOR = 923632201
PTTCZYUW RUEKJCS1456 3632156-CCCC--RUEALGX.
ZNY CCCCC

HEADER

P 282156Z DEC 92
FM JOINT STAFF WASHINGTON DC
INFO RUEADWD/OCSA WASHINGTON DC
RUENAAA/CNO WASHINGTON DC
RUEAHQA/CSAF WASHINGTON DC
RUCGCDE/NACEMEAF
RUEADWD/PTC WASH DC
RUVKSRT/12 AF BERGSTROM AFB TX//IN//
RUEOACC/CDRPSYOPGP FT BRAGG NC//AORC-POG-SB//
RUCBSAA/USCINCLANT NORFOLK VA//J2//
RUWSMXI/AMC INTEL CEN SCOTT AFB IL//IN//
RUCQVAB/USCINCSOC INTEL OPS CEN MACDILL AFB FL
RUEOFAA/COMJSOC FT BRAGG NC//J2//
RULKQAN/MARCORINTCEN QUANTICO VA
RULSJGA/COGARD INTELCOORDCEN WASHINGTON DC
RUEALGX/SAFE

P 282148Z DEC 92
FM AMEMBASSY LIMA
TO SECSTATE WASHDC PRIORITY 4470
BT

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LIMITED OFFICIAL USE SECTION 01 OF 05 LIMA 16359

FOR ARA AND HA

E.O. 12356: N/A

/***** THIS IS A COMBINED MESSAGE *****/

BODY

TAGS: PHUM, PE
SUBJECT: COMMENTS ON DRAFT HUMAN RIGHTS
REPORT

REF: A) STATE 403444; B) LIMA 13841
C) MCFARLAND-HALL TELCON, 12/15/92

1. FOLLOWING ARE EMBASSY LIMA'S COMMENTS ON THE
DRAFT HUMAN RIGHTS REPORT FOR 1992, AS REVISED
BY THE DEPARTMENT. SOME OF THE CHANGES WE
PROPOSE REFLECT NEW INFORMATION, OR RECENT
EVENTS SUCH AS THE AFTERMATH OF THE NOVEMBER
COUP PLOTTING. OTHERS REFLECT A DIFFERENT

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Dept. of State, RPS/IPS, Margaret P. Grafeld, Dir.
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Date 9/29/00 Exemption B5

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READING OF THE HUMAN RIGHTS SITUATION. WE HAVE TAKEN THE LIBERTY OF REWRITING THE SUMMARY -- WHOSE BASIC FORM HAS NOT CHANGED IN YEARS -- TO REFLECT THE SIGNIFICANT CHANGES IN THE POLITICAL AND HUMAN RIGHTS SCENE, AND TO DESCRIBE BETTER THE CONTEXT IN WHICH HUMAN RIGHTS VIOLATIONS OCCUR. BY SEPTTEL WE WILL ANSWER SPECIFIC QUESTIONS RAISED IN REF A. ALL PARAGRAPH REFERENCES ARE TO REF A.

2. THERE ARE FIVE THEMES WE BELIEVE SHOULD COME ACROSS IN THIS REPORT:

-- VIOLATIONS OCCUR IN THE CONTEXT OF A VERY SERIOUS EFFORT BY SENDERO TO ASSUME POWER. SENDERO IS NOT A "NUISANCE" TERRORIST GROUP; IT HAS BEEN A SERIOUS THREAT TO THE PERUVIAN STATE.

-- SENDERO KILLINGS OUTNUMBER GOVERNMENT EXTRAJUDICIAL KILLINGS BY EIGHT OR TEN TO ONE.

-- GOVERNMENT VIOLATIONS ARE INCREASINGLY DIRECTED AGAINST ALLEGED SENDERO MEMBERS. THE NUMBER OF VIOLATIONS, THEIR FREQUENCY, AND THE GOVERNMENT'S FAILURE TO STOP THEM LEADS US TO CONCLUDE THAT THEY ARE NOT INDIVIDUAL EXCESSES, BY AND LARGE, BUT RATHER PART OF THE GOVERNMENT'S COUNTER-INSURGENCY POLICY.

-- THE 1980-92 DEMOCRATIC PROCESS SUFFERED A CRISIS OF LEGITIMACY THAT PREDATED FUJIMORI. FUJIMORI'S COUP DID NOT JUST INTERRUPT IT, IT ENDED THE PREVIOUS ORDER. WHAT EMERGES MAY OR MAY NOT BE DEMOCRATIC.

-- FUJIMORI HAS USED HIS CONTROL OVER THE EXECUTIVE AND JUDICIAL BRANCHES AND THE SECURITY FORCES TO HARASS DEMOCRATIC OPPOSITION.

PROPOSED NEW SUMMARY/INTRODUCTION:

TWELVE YEARS OF DEMOCRATIC GOVERNMENT IN PERU ENDED ON APRIL 5, 1992, WHEN PRESIDENT FUJIMORI DISSOLVED CONGRESS AND THE CONSTITUTIONAL GUARANTEES TRIBUNAL, REORGANIZED THE JUDICIARY, AND SUSPENDED PARTS OF THE 1979 CONSTITUTION. SUPPORTED BY THE MILITARY AND THE MAJORITY OF PUBLIC OPINION, THE PRESIDENT SAID THE OLD POLITICAL SYSTEM WAS INCAPABLE OF FIGHTING

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TERRORISM, CORRUPTION, AND ECONOMIC DECAY. FOLLOWING INTERNATIONAL CONDEMNATION OF THE COUP, THE PRESIDENT AGREED TO ELECTIONS ON NOVEMBER 22 FOR A CONSTITUENT CONGRESS THAT WILL LEGISLATE UNTIL JULY 1995 AND DRAFT A NEW CONSTITUTION. ALTHOUGH THE TWO LARGEST POLITICAL PARTIES BOYCOTTED THE ELECTIONS, OBSERVERS, INCLUDING THOSE FROM THE ORGANIZATION OF AMERICAN STATES (OAS), FOUND THEM TO HAVE BEEN CONDUCTED FAIRLY. A RETURN TO DEMOCRATIC INSTITUTIONS, HOWEVER, WILL DEPEND UPON THE DEGREE OF AUTONOMY OF THE NEW CONGRESS AND OF THE JUDICIARY, AS WELL AS THE CONDUCT OF THE 1993 MUNICIPAL ELECTIONS AND THE CONTENT OF THE NEW CONSTITUTION.

UNDERSCORING THE NEED FOR DEMOCRACY WAS AN ATTEMPTED COUP IN NOVEMBER. THE GOVERNMENT HAS ALLEGED THAT COUP PLOTTERS, PLUS LEADING OPPOSITION FIGURES, SOUGHT TO KILL THE PRESIDENT, BUT OFFERED NO PROOF. TWO OF THE OPPOSITION LEADERS SOUGHT POLITICAL ASYLUM, CLAIMING GOVERNMENT PERSECUTION. THE EXECUTIVE BRANCH IN PRACTICE DOMINATES THE JUDICIARY, AND

/***** BEGINNING OF SECTION 002 *****/
THERE ARE CREDIBLE ALLEGATIONS THAT THE GOVERNMENT USES THE COURTS TO INTIMIDATE POLITICAL OPPONENTS. THERE WERE SEVERAL CASES OF GOVERNMENT COURT ACTIONS AGAINST HUMAN RIGHTS ADVOCATES AND JOURNALISTS WHO CRITICIZED THE GOVERNMENT.

RULING BY DECREE LAW, THE PRESIDENT MADE MAJOR CHANGES IN THE JUDICIAL SYSTEM. NUMEROUS JUDGES AND PROSECUTORS WERE FIRED FOR CORRUPTION. NEW DECREE LAWS DEFINE MOST TERRORISM CASES AS "TREASON," TO BE TRIED BY MILITARY COURTS. THESE MEASURES SOUGHT TO ADDRESS DEFICIENCIES IN THE CIVILIAN COURTS. THERE REMAINS CONCERN, HOWEVER, THAT THE MILITARY COURTS, WHICH SO FAR HAVE A 100 PERCENT CONVICTION RATE, WILL NOT PROVIDE A FAIR TRIAL. OTHER LAWS RESTRICT DEFENSE ATTORNEYS AND INCREASE PENALTIES FOR TERRORISM. PROSECUTIONS OF ALLEGED GOVERNMENT ABUSES MADE NO SIGNIFICANT PROGRESS DURING 1992.

THE WAR WITH THE MAOIST SENDERO LUMINOSO TERRORISTS, WHICH HAS CLAIMED SOME 25,000 LIVES, ENTERED ITS THIRTEENTH YEAR. A SECOND SMALLER

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GROUP, KNOWN AS THE TUPAC AMARU REVOLUTIONARY MOVEMENT (MRTA), ALSO CARRIED OUT TERRORISM. SENDERO SEEKS TO DESTROY THE PERUVIAN STATE AND TO IMPLANT A CHINESE "CULTURAL REVOLUTION" GOVERNMENT. IT REJECTS ANY DIALOGUE OR ROLE IN THE POLITICAL SYSTEM. ACCORDINGLY, IT CONSIDERS THAT ANYONE ASSOCIATED WITH THE GOVERNMENT AND THE ESTABLISHED SYSTEM, SUCH AS LOCAL SELF-HELP GROUPS, IS AN ENEMY. MOST EVIDENCE SUGGESTS SENDERO HAS LITTLE POPULAR SUPPORT; THEREFORE, IT RELIES ON TERROR TO ACCOMPLISH ITS GOALS. IN THE COUNTRYSIDE, SENDERO KILLED MEMBERS OF SELF-DEFENSE FORCES, COMMUNITY LEADERS, AND POLITICAL PARTY MEMBERS. IN THE VILLAGE OF HUAYLLAO, FOR EXAMPLE, SENDERO KILLED OVER 40 UNARMED PERSONS WHO HAD REJECTED SENDERO'S PRESENCE. IN LIMA, SENDERO ADOPTED A TWO-PRONGED STRATEGY. TO CREATE A POWER VACUUM IN WHICH IT COULD GROW, SENDERO MURDERED SCORES OF GRASSROOTS LEADERS IN LIMA DURING 1992, INCLUDING THE FEBRUARY KILLING OF MARIA ELENA MOYANO, A LEADER IN A LIMA SLUM WHO HAD ADVOCATED PACIFIC OPPOSITION TO SENDERO. SENDERO'S OTHER WEAPON IN LIMA WAS THE USE OF POWERFUL CARBOMBS IN POPULATED AREAS. DURING 1992, OVER 30 CARBOMBS KILLED DOZENS OF CIVILIANS, INJURED HUNDREDS, AND CAUSED EXTENSIVE MATERIAL DAMAGES IN CROWDED COMMERCIAL AND RESIDENTIAL NEIGHBORHOODS, CREATING A PANIC THAT SUBSIDED ONLY WHEN SENDERO LEADER GUZMAN WAS CAPTURED IN MID-SEPTEMBER.

THE MILITARY AND POLICE SHARE COUNTERTERRORISM DUTIES IN LIMA; IN THE COUNTRYSIDE, THE MILITARY TAKES THE LEAD IN AREAS UNDER A STATE OF EMERGENCY. EMERGENCY ZONE STATUS PROVIDES FOR THE SUSPENSION OF CERTAIN CONSTITUTIONAL GUARANTEES; CURRENTLY 48 PERCENT OF PERU'S 22 MILLION PEOPLE LIVE IN SUCH AREAS, INCLUDING THE 8 MILLION RESIDENTS OF LIMA. PERUVIANS CONSIDER SENDERO TO BE THE COUNTRY'S MAJOR THREAT. THE GOVERNMENT'S RESPONSE TO TERRORISM INCLUDED INCREASED EFFORTS TO CAPTURE SENDERO'S LEADERS; ON SEPTEMBER 12 POLICE ARRESTED SENDERO FOUNDER ABIMAELE GUZMAN AND SEVERAL OTHER TOP SL LEADERS. GUZMAN AND HIS COLLEAGUES READILY ACKNOWLEDGED THEIR RESPONSIBILITY AND WERE SENTENCED TO LIFE IN PRISON. CIVIC ACTION PROGRAMS WERE USED TO WIN POPULAR SUPPORT. THERE ARE VERY CREDIBLE REPORTS, HOWEVER, THAT THE SECURITY FORCES ALSO IDENTIFIED AND

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EXECUTED, OR DISAPPEARED, HUNDREDS OF SUSPECTED SENDERO MEMBERS. IN THE COUNTRYSIDE, THE GOVERNMENT FORMED LOCAL CIVIL DEFENSE FORCES, CALLED "RONDAS," TO COMBAT TERRORISM.

SENDERO AND THE MRTA REMAIN THE MAJOR VIOLATORS OF HUMAN RIGHTS IN PERU, CARRYING OUT TEN TIMES AS MANY SUMMARY EXECUTIONS AS THE PERUVIAN SECURITY FORCES. SENDERO ABUSES INCLUDED ASSASSINATIONS OF ANYONE, WHETHER IN THE GOVERNMENT OR NOT, WHO MIGHT CONCEIVABLY OPPOSE

/***** BEGINNING OF SECTION 003 *****/
THEM. LACKING POPULAR SUPPORT, TERROR AGAINST CIVILIANS IS AN INTEGRAL PART OF SENDERO'S STRATEGY. GOVERNMENT VIOLATIONS IN THE COUNTER-INSURGENCY CONTINUE TO BE SUMMARY EXECUTIONS AND DISAPPEARANCES, AND TORTURE OF DETAINEES. THERE WAS NO SIGNIFICANT ADVANCE IN 1992 OF GOVERNMENT INVESTIGATIONS AND PROSECUTIONS OF ALLEGED GOVERNMENT ABUSES. THE GOVERNMENT SUED TWO INDIVIDUALS WHO PROVIDED ALLEGED EVIDENCE LINKING THE GOVERNMENT TO THE 1991 BARRIOS ALTOS MASSACRE. RESPONSIBLE HUMAN RIGHTS GROUPS, WHICH ALSO POINT OUT AND CONDEMN TERRORIST VIOLENCE, ARGUE PERSUASIVELY THAT THE SCALE AND FREQUENCY OF GOVERNMENT VIOLATIONS, ALONG WITH LACK OF PUNISHMENT, MEANS THAT THE GOVERNMENT TACITLY APPROVES VIOLATIONS AGAINST TERRORISTS. THE ICRC HAD ACCESS TO MILITARY BASES, BUT WAS UNABLE, DUE TO NEW GOVERNMENT RULES, TO CONTINUE VISITS TO PERUVIAN PRISONS AFTER SEPTEMBER.

RETAIN SAME PARAGRAPH ON THE ECONOMY.

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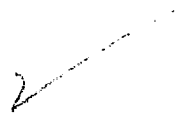
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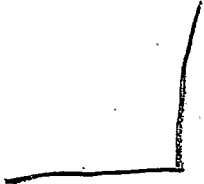


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