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TEXT

TAGS: PHUM PE
SUBJECT: FINAL 1992 HUMAN RIGHTS REPORT FOR PERU

1. LOU - ENTIRE TEXT.
2. TRANSMITTED HERewith IS THE FINAL VERSION OF THE PERU HUMAN RIGHTS REPORT FOR 1992 AS IT WILL GO TO THE CONGRESS ON TUESDAY MORNING, JANUARY 19. ASSISTANT SECRETARY DENNIS WILL RELEASE THE REPORT TO THE PUBLIC AT HER PRESS CONFERENCE ON TUESDAY AFTERNOON, 2 P.M.
3. THE EMBASSY MAY, AT ITS DISCRETION, PROVIDE A COPY TO THE GOP ON THE CONDITION THAT THE GOP OBSERVE AN EMBARGO ON ITS RELEASE UNTIL THE TIME OF PUBLIC RELEASE HERE, I.E., 2 P.M. EST, JANUARY 19.
4. DEPT WILL PROVIDE A COPY OF THE REPORT TO THE PERUVIAN EMBASSY IN WASHINGTON TUESDAY AFTERNOON AFTER THE ASSISTANT SECRETARY'S PRESS CONFERENCE.
5. BEGIN TEXT.

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TWELVE YEARS OF DEMOCRATIC GOVERNMENT IN PERU WERE INTERRUPTED ON APRIL 5, 1992, WHEN PRESIDENT FUJIMORI DISSOLVED CONGRESS, REORGANIZED THE JUDICIARY, AND SUSPENDED PORTIONS 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 TERRORISM, CORRUPTION, AND ECONOMIC DECAY. FOLLOWING INTERNATIONAL CONDEMNATION OF HIS ACTIONS AT A SPECIAL MEETING OF THE FOREIGN MINISTERS OF THE ORGANIZATION OF AMERICAN STATES (OAS) ON MAY 18, PRESIDENT FUJIMORI AGREED TO HOLD ELECTIONS FOR A CONSTITUENT CONGRESS, WHICH TOOK PLACE ON NOVEMBER 22. THE CONSTITUENT CONGRESS WILL LEGISLATE UNTIL JULY 1995 AND DRAFT A NEW CONSTITUTION. ALTHOUGH THE TWO LARGEST POLITICAL PARTIES BOYCOTTED THE ELECTIONS, OBSERVERS, INCLUDING THOSE FROM THE 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 THE JUDICIARY, AS WELL AS THE CONDUCT OF THE 1993 MUNICIPAL ELECTIONS AND THE ENTRY INTO FORCE OF A NEW CONSTITUTION. AN ATTEMPTED COUP IN NOVEMBER FURTHER UNDERScoreD THE NEED FOR A RETURN TO FULL DEMOCRACY.

THE JUDICIAL SYSTEM, WHICH HAD SUFFERED FROM CORRUPTION AND POLITICAL INFLUENCE, WAS PLACED UNDER EXECUTIVE BRANCH CONTROL AFTER APRIL 5. RULING BY DECREE LAW, PRESIDENT FUJIMORI MADE MAJOR CHANGES IN JUDICIAL AND PROSECUTORIAL PROCEDURES AND PERSONNEL. NUMEROUS JUDGES AND PROSECUTORS WERE FIRED FOR CORRUPTION IN AN EFFORT TO ADDRESS DEFICIENCIES IN THE CIVILIAN COURTS. NEW DECREE LAWS DEFINED MOST TERRORISM CASES AS "TREASON" TO BE TRIED IN MILITARY COURTS. THIS LED TO CONCERN THAT THE MILITARY COURTS, WHICH SO FAR HAVE AN ALMOST 100 PERCENT CONVICTION RATE UNDER THE NEW RULES, WILL NOT TRY DEFENDANTS FAIRLY. OTHER LAWS RESTRICT THE ACTIONS OF DEFENSE ATTORNEYS IN TERRORISM TRIALS AND INCREASE PENALTIES FOR TERRORISM. PROSECUTIONS OF ALLEGED GOVERNMENT ABUSES MADE LITTLE SIGNIFICANT PROGRESS DURING 1992.

PUBLIC SECURITY RESPONSIBILITIES ARE SHARED BY THE POLICE AND THE MILITARY. ACCORDING TO THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY, TOTAL MILITARY EXPENDITURES FOR 1989 WERE APPROXIMATELY 500 MILLION. THERE ARE NO PLANS TO REDUCE CURRENT MILITARY EXPENDITURES IN THE NEAR FUTURE. THE MILITARY AND THE POLICE CONTINUED TO SHARE COUNTERTERRORISM DUTIES IN LIMA; IN THE COUNTRYSIDE, THE MILITARY TAKES THE LEAD IN AREAS UNDER A STATE OF EMERGENCY. EMERGENCY ZONE STATUS CONTINUED TO PROVIDE 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. A VAST MAJORITY OF PERUVIANS CONSIDER THE TERRORIST ACTIVITIES OF THE SENDERO LUMINOSO (SHINING PATH) MAOIST GUERRILLAS TO BE THE COUNTRY'S MAJOR THREAT. BOTH THE

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POLICE AND MILITARY CONTINUED TO BE RESPONSIBLE FOR HUMAN RIGHTS ABUSES IN 1992.

PERU HAS A MIXED ECONOMY WHICH COMBINES FREE MARKET CAPITALISM WITH STATE OWNERSHIP OF SOME MAJOR INDUSTRIES. MINERALS EXTRACTION AND PROCESSING ACCOUNT FOR HALF OF THE FOREIGN EXCHANGE EARNINGS. PRESIDENT FUJIMORI'S ADMINISTRATION PURSUED A RIGOROUS ECONOMIC STABILIZATION AND STRUCTURAL ADJUSTMENT PROGRAM IN AN ATTEMPT TO REVERSE DECADES OF ECONOMIC DECLINE. AN IMPORTANT STEP IN THIS PROGRAM WAS THE PRIVATIZATION OF STATE-OWNED FIRMS. RECESSION CONTINUES, HOWEVER, AND IT IS ESTIMATED THAT AT LEAST ONE THIRD OF PERUVIANS LIVE IN CRITICAL POVERTY.

THE CHIEF SOURCES OF HUMAN RIGHTS VIOLATIONS IN PERU REMAINED THE TERRORIST ACTIVITIES OF THE SENDERO LUMINOSO AND, TO A LESSER DEGREE, THE EXCESSES OF THE SECURITY SERVICES. SENDERO ABUSES INCLUDED ASSASSINATIONS OF PERCEIVED OPPONENTS OR THE MERELY UNCOOPERATIVE, FROM GOVERNMENT LEADERS AND OTHER OFFICIALS TO RELIGIOUS WORKERS AND PEASANTS. SENDERO, LACKING POPULAR SUPPORT, MAKES TERROR AGAINST CIVILIANS AN INTEGRAL PART OF ITS STRATEGY. IN THE COUNTRYSIDE, SENDERO KILLED MEMBERS OF RURAL SELF-DEFENSE FORCES (RONDAS), COMMUNITY LEADERS, AND POLITICAL PARTY MEMBERS. ON OCTOBER 10, SENDERO KILLED 48 PEASANTS IN THE AYACUCHO VILLAGE OF HUAYLLAO; IT WAS THE LARGEST SINGLE MASSACRE BY GUERRILLAS IN THE LAST 8 YEARS. TO CREATE A POWER VACUUM IN WHICH IT COULD GROW IN LIMA, SENDERO MURDERED SCORES OF GRASSROOTS LEADERS DURING 1992, INCLUDING MARIA ELENA MOYANO, WHO ADVOCATED PEACEFUL OPPOSITION TO SENDERO. SHE WAS SHOT DEAD AND HER BODY BLOWN TO PIECES BY DYNAMITE IN FRONT OF HER CHILDREN ON FEBRUARY 15. SENDERO'S OTHER WEAPON IN LIMA WAS THE USE OF POWERFUL CAR BOMBS IN POPULATED AREAS.

PERU'S RESPECTED, INDEPENDENT NATIONAL COORDINATING COMMITTEE FOR HUMAN RIGHTS (COORDINADORA) REPORTED THAT SENDERO WAS RESPONSIBLE FOR 654 ASSASSINATIONS AS OF NOVEMBER 1992. ON SEPTEMBER 12 COUNTERTERRORISM POLICE CAPTURED SENDERO CHIEF ABIMAEEL GUZMAN AND OTHER TOP SENDERO LEADERS. THEY WERE FOUND GUILTY IN MILITARY TRIALS AND SENTENCED TO LIFE IMPRISONMENT. THIS WAS A CONSIDERABLE BLOW TO SENDERO, ALTHOUGH THE ORGANIZATION REMAINED A SERIOUS THREAT TO PERUVIAN INSTITUTIONS, AND SENDERO BOMBINGS AND ABUSES CONTINUED. OTHER POLICE AND MILITARY ACTIONS IN 1992 SEVERELY HURT THE TUPAC AMARU REVOLUTIONARY MOVEMENT (MRTA). BOTH SENDERO AND MRTA CONTINUED TO VIE FOR CONTROL OF PARTS OF PERUS MAJOR COCA-GROWING REGION, THE UPPER HUALLAGA VALLEY.

IN 1992 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 RURAL EMERGENCY ZONES. PARTICULARLY IN THE HUANCAYO AREA, THE MILITARY AND POLICE APPEAR TO HAVE SELECTIVELY KIDNAPED AND KILLED DOZENS OF PERSONS ALLEGED TO BE MEMBERS OF SENDERO LUMINOSO. FEW ABUSES ARE FULLY INVESTIGATED, AND PROSECUTION

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OF SECURITY FORCE MEMBERS IS RARE. STATISTICS FROM THE COORDINADORA AND THE PUBLIC MINISTRY (AN AUTONOMOUS OFFICE OF THE ATTORNEY GENERAL) CONFIRMED THAT THE NUMBER OF DISAPPEARANCES AND EXTRAJUDICIAL KILLINGS BY THE SECURITY FORCES REMAINED ROUGHLY THE SAME AS IN 1991. MEMBERS OF THE SECURITY FORCES, RONDAS, AND PARAMILITARY GROUPS POSSIBLY CONNECTED TO ELEMENTS WITHIN THE GOVERNMENT WERE BELIEVED RESPONSIBLE FOR 95 EXTRAJUDICIAL KILLINGS. PRESIDENT FUJIMORI CONTINUED IN 1992 TO STRESS PUBLICLY THE NEED TO IMPROVE RESPECT FOR HUMAN RIGHTS, INCLUDING BY THE SECURITY FORCES. HOWEVER, HE CONTINUED TO CRITICIZE STRONGLY LOCAL AND INTERNATIONAL HUMAN RIGHTS GROUPS AS APOLOGISTS FOR TERRORISTS. THERE WERE CREDIBLE REPORTS THAT THE GOVERNMENT USED THE COURTS ON SEVERAL OCCASIONS TO INTIMIDATE POLITICAL OPPONENTS AND HUMAN RIGHTS ACTIVISTS.

MILITARY AND POLICE INVESTIGATIONS INTO HUMAN RIGHTS VIOLATIONS COMMITTED BY THEIR OWN MEMBERS WERE SPORADIC AND RARELY RESULTED IN EFFECTIVE CRIMINAL PROSECUTIONS. WHILE SECURITY FORCES CLAIMED THAT THERE WERE SIGNIFICANT NUMBERS OF DISMISSALS FOR VARIOUS TYPES OF ABUSES, THESE WERE DIFFICULT TO VERIFY SINCE MILITARY PRACTICE IS TO SEAL THE RELEVANT RECORDS.

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 LUMINOSO COMMITTED 654 POLITICAL ASSASSINATIONS THROUGH NOVEMBER 1992; THE MRTA 15; AND UNIDENTIFIED SUBVERSIVES 54. THE SECURITY FORCES WERE RESPONSIBLE FOR 81 EXTRAJUDICIAL KILLINGS THROUGH NOVEMBER 1992; PARAMILITARY GROUPS FOR 10; AND PEASANT RONDAS, OFTEN ASSOCIATED WITH THE MILITARY, FOR 4. THE DEATHS OF 170 PERSONS WERE CLASSIFIED AS "NOT CLARIFIED." DUE TO THE ISOLATION OF MANY RURAL AREAS WHERE SENDERO IS MOST ACTIVE, THE NUMBER OF VICTIMS IS PROBABLY UNDERREPORTED.

ACCORDING TO THE DISSOLVED CONGRESS' COMMISSION ON PACIFICATION, 2,830 PEOPLE, INCLUDING COMBATANTS AND CIVILIANS, WERE KILLED IN OVERALL TERRORIST-RELATED VIOLENCE BETWEEN JANUARY AND NOVEMBER 1992. THIS FIGURE INCLUDES 1,040 TERRORISTS AND 427 SOLDIERS AND POLICE. ARMED CLASHES WITH GOVERNMENT FORCES ACCOUNTED FOR THE BULK OF CASUALTIES AMONG TERRORISTS. IT IS OFTEN DIFFICULT TO DISTINGUISH COMBAT-RELATED DEATHS FROM EXTRAJUDICIAL KILLINGS, WHICH MAKES CHARGES OF HUMAN RIGHTS ABUSE DIFFICULT TO VERIFY.

OF THE REPORTED 81 EXTRAJUDICIAL KILLINGS ATTRIBUTED BY THE COORDINADORA TO POLICE AND MILITARY FORCES AS OF NOVEMBER 1992, THE MAJORITY OCCURRED IN EMERGENCY ZONES. FOR EXAMPLE, BETWEEN AUGUST AND OCTOBER, ARMED AND MASKED PERSONS ABDUCTED 30

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STUDENTS FROM THE PERUVIAN CENTRAL UNIVERSITY IN HUANCAYO. ELEVEN WERE FOUND DEAD BEARING BURNS AND SIGNS OF ELECTRIC SHOCKS. HUMAN RIGHTS MONITORS BLAME THE MILITARY FOR THESE DEATHS. IN SAN MARTIN, ERIC ROJAS LLANCA, 16, AND RAFAEL NAVARRO PISANGO, 20, WERE DETAINED BY THE ARMED FORCES ON JUNE 21. ON JUNE 22, THEIR BODIES, BEARING SIGNS OF TORTURE, WERE FOUND IN A NEARBY RIVER. THE NUMBER OF EXTRAJUDICIAL KILLINGS WAS LIKELY UNDERREPORTED, GIVEN WIDESPREAD DISTRUST OF THE STATE BY THE COMMUNITY AT LARGE AND THE DYSFUNCTIONAL PERUVIAN JUSTICE SYSTEM.

THE SECURITY FORCES HAVE GENERALLY BEEN UNABLE OR UNWILLING TO INVESTIGATE AND PROSECUTE CASES IN WHICH THEIR OWN MEMBERS ARE IMPLICATED. THE PERUVIAN CODE OF MILITARY JUSTICE CONTAINS NO PROVISION FOR DEALING WITH CASES OF KILLING, KIDNAPING, OR TORTURE, ONLY "NEGLIGENCE" AND "ABUSE OF AUTHORITY." ALTHOUGH THE CURRENT CODE ALLOWS MILITARY COURTS TO USE RELEVANT PORTIONS OF THE CIVILIAN PENAL CODE TO TRY CRIMES NOT COVERED UNDER THE MILITARY CODE, THIS IS RARELY DONE. THE MILITARY HAS REPEATEDLY USED ITS COURT SYSTEM TO PREEMPT CIVILIAN INVESTIGATION AND PROSECUTION OF CASES INVOLVING MILITARY ABUSES; UNDER THE LAW, PERSONS TRIED UNDER A MILITARY COURT CANNOT SUBSEQUENTLY BE TRIED IN CIVILIAN COURTS FOR THE SAME OFFENSE.

IN SEPTEMBER 1991, THE GOVERNMENT AUTHORIZED ACCESS BY THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) TO ALL MILITARY DETENTION FACILITIES TO VERIFY THE PRESENCE AND WELFARE OF DETAINEES. THIS ACCESS CONTINUED UNTIL SEPTEMBER 1992, WHEN THE GOVERNMENT INFORMED THE ICRC THAT NEW LAWS RESTRICTED PREVIOUSLY AGREED-UPON ICRC ACCESS TO CIVILIAN PRISONS. THE ICRC HALTED ITS PRISON VISITS IN SEPTEMBER BUT CONTINUED TO VISIT POLICE AND MILITARY INSTALLATIONS. AT YEAR'S END, THE ICRC AND THE GOVERNMENT WERE WORKING TO RESOLVE THE PROBLEM. IN 1992 THE ICRC REGISTERED OVER 2,200 NEW SECURITY DETAINEES AT VARIOUS PLACES OF DETENTION THROUGHOUT THE COUNTRY. THE ICRC VISITED SOME 130 POLICE STATIONS, INCLUDING THE COUNTER-TERRORISM POLICE OFFICES IN LIMA, AND REGISTERED OVER 1,100 NEW DETAINEES, OF WHOM OVER 300 WERE LATER RELEASED BY THE AUTHORITIES AFTER INVESTIGATION. OVER 135 MILITARY FACILITIES WERE VISITED AND ABOUT 120 NEW DETAINEES WERE REGISTERED, OF WHOM APPROXIMATELY 40 WERE RELEASED AFTER INVESTIGATION.

DURING MAY 4-9, THE NATIONAL POLICE STORMED LIMA'S CANTO GRANDE MAXIMUM SECURITY PRISON, WHICH HOUSED THE MAJORITY OF THE COUNTRY'S CONVICTED TERRORISTS. SENDERO AND MRTA INMATES HAD GAINED CONTROL OF THEIR RESPECTIVE CELL BLOCKS, AND SENDERO PROPAGANDA PROCLAIMED THE PRISONS TO BE "SHINING TRENCHES OF COMBAT" THAT SENDERO USED AS TRAINING CENTERS FOR ITS CADRE. POLICE INITIALLY SHOWED RESTRAINT, DESPITE THE DEATHS OF TWO POLICEMEN, ONE OF WHOM WAS REPORTEDLY KILLED WITH ACID. AFTER A FINAL POLICE ASSAULT, OFFICIAL AND UNOFFICIAL CASUALTY REPORTS INDICATED THAT AT LEAST 36 INMATES HAD BEEN KILLED. THERE ARE CREDIBLE REPORTS THAT THE POLICE DELIBERATELY KILLED

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FOUR SENDERO LEADERS, AND PERHAPS OTHERS, AFTER EFFECTIVE CONTROL OF THE PRISON WAS REESTABLISHED. AFTER THE ASSAULT, HUMAN RIGHTS ORGANIZATIONS AND THE ICRC WERE DENIED ACCESS TO THE PRISON.

HUMAN RIGHTS GROUPS MAINTAIN THAT AN UNKNOWN NUMBER OF CAPTURED TERRORISTS AND INNOCENT CIVILIANS WERE SUMMARILY EXECUTED BY THE MILITARY IN 1992. THESE CLAIMS ARE DIFFICULT OR IMPOSSIBLE TO VERIFY DUE TO DIFFICULTIES IN OBTAINING INFORMATION OR TRAVELING TO MANY OF THESE AREAS.

IN 1992 PRESIDENT FUJIMORI POINTED TO THE RONDAS AS A FUNDAMENTAL PART OF HIS ANTISUBVERSIVE STRATEGY AGAINST SENDERO LUMINOSO. SOME RONDAS ARE ORGANIZED AND EQUIPPED BY THE GOVERNMENT AND THE MILITARY. MANY, HOWEVER, EMERGE AND OPERATE WITH LITTLE GOVERNMENT ENCOURAGEMENT; THEY ARE OFTEN THE ONLY DEFENSE A COMMUNITY HAS AGAINST TERRORISTS. THE RONDAS HAVE DEMONSTRATED SOME EFFECTIVENESS IN DETERRING BANDITS AND TERRORISTS, AS WELL AS SERVING OTHER FUNCTIONS SUCH AS BASIC COMMUNITY SELF-HELP WORK. REPORTS INDICATED, HOWEVER, THAT SOME RONDAS WERE INVOLVED IN NUMEROUS HUMAN RIGHTS ABUSES, INCLUDING THE TORTURE AND EXTRAJUDICIAL KILLING OF SUSPECTED TERRORISTS.

NO PROGRESS WAS REPORTED IN THE INVESTIGATION INTO THE NOVEMBER 3, 1991, MASSACRE OF 17 PERSONS IN THE BARRIOS ALTOS NEIGHBORHOOD OF LIMA. DESPITE STRONG INDICATIONS THAT THE AUTHORS OF THIS MASSACRE MAY HAVE BEEN LINKED TO THE SECURITY FORCES, THE GOVERNMENT PUBLICLY INSISTED THE ASSAILANTS COULD HAVE BEEN COMMON CRIMINALS, AND THE INVESTIGATION STALLED. AN ARTICLE BASED ON SUPPOSED ARMY SOURCES THAT CLAIMED A SPECIAL INTELLIGENCE SERVICE UNIT CARRIED OUT THE KILLINGS, WITH APPARENT GOVERNMENT APPROVAL, WAS NOT INVESTIGATED. INSTEAD, THE GOVERNMENT SUED THE JOURNALIST FOR LIBEL.

THERE WAS LITTLE PROGRESS IN THE SANTA BARBARA (HUANCVELICA DEPARTMENT) CASE WHERE AN ARMY OFFICER AND FIVE NONCOMMISSIONED OFFICERS WERE CHARGED IN THE JULY 4, 1991, DEATHS OF 14 PEASANTS WHOSE BODIES WERE FOUND IN AN ABANDONED MINE. THE TRIAL OF 14 CASHIERED POLICE PERSONNEL IMPLICATED IN THE JUNE 23, 1991, DEATHS OF A MEDICAL STUDENT AND TWO TEENAGED BROTHERS IN CALLAO ENTERED ITS LAST LEGAL STAGES AND IS EXPECTED TO BE CONCLUDED IN EARLY 1993. THE INVESTIGATING PROSECUTOR IN THE MARCH 15 LETTER BOMB ATTACK ON HUMAN RIGHTS LAWYER DR. AUGUSTO ZUNIGA PAZ SUSPENDED ACTION ON THE CASE APRIL 27 PENDING FURTHER EVIDENCE. DR. ZUNIGA'S REPRESENTATIVES WERE REPORTEDLY UNAWARE OF THIS UNTIL SEPTEMBER AND FILED ANOTHER SUIT IN THIS CASE. AS IN 1991, MILITARY OFFICIALS ASSERTED THAT A NUMBER OF ENLISTED MEN AND OFFICERS WERE PROSECUTED IN THE MILITARY JUSTICE SYSTEM ON CHARGES RELATING TO HUMAN RIGHTS VIOLATIONS. HOWEVER, SUCH ASSERTIONS WERE DIFFICULT TO CONFIRM BECAUSE, AS A MATTER OF PRACTICE, THE MILITARY COURTS SEALED RELEVANT RECORDS. NEITHER THE IDENTITIES OF THESE INDIVIDUALS, THE NATURE OF THEIR OFFENSES, NOR THE EXACT SENTENCES IMPOSED WERE MADE PUBLIC.

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SENDERO LUMINOSO CONTINUED TO ASSASSINATE TEACHERS, CLERGY, ENGINEERS, DEVELOPMENT AND HUMAN RIGHTS WORKERS, POLITICAL ACTIVISTS, AND PUBLIC SERVANTS, AS WELL AS MEMBERS OF THE SECURITY FORCES. IN 1992 SENDERO STEPPED UP VIOLENT POLITICAL ACTIVITY IN URBAN CENTERS, WITH PARTICULAR EMPHASIS ON LIMA'S SURROUNDING SLUM AREAS, KILLING OVER 145 GRASSROOTS LEADERS. A NUMBER OF THESE KILLINGS WERE CARRIED OUT IN A GRUESOME FASHION INTENDED TO INTIMIDATE OTHER POTENTIAL OPPONENTS. ON FEBRUARY 15 A SENDERO ASSASSINATION TEAM SHOT AND KILLED MARIA ELENA MOYANO, A LEADER IN LIMA'S VILLA EL SALVADOR SHANTYTOWN, IN THE PRESENCE OF HER CHILDREN, THEN BLEW UP HER BODY BY EXPLODING DYNAMITE PLACED ON HER CHEST. SENDERO CONTINUED TO TARGET FOREIGN RELIGIOUS AND DEVELOPMENT WORKERS. ON OCTOBER 2, A SENDERO UNIT KIDNAPED ITALIAN SALESIAN BROTHER GIULIANI ROCCA FROM HIS ORDER'S HOUSE NEAR HUARAZ, ANCASH DEPARTMENT AND LATER KILLED HIM WITH A SHOT TO THE HEAD. ON OCTOBER 10, A SENDERO COLUMN ATTACKED THE HAMLET OF HUAYLLAO, IN AYACUCHO DEPARTMENT, MURDERING AT LEAST 48 VILLAGERS, INCLUDING THE ELDERLY, WOMEN, AND CHILDREN, AND SACKING OR BURNING A LARGE PORTION OF THE COMMUNITY.

A SECOND TERRORIST GROUP, THE MRTA, CARRIED OUT SPORADIC HIGH VISIBILITY/LOW RISK ACTIONS, SUCH AS THE JULY 6 4-HOUR RAID ON JAEN, CAJAMARCA DEPARTMENT; THE AUGUST AMBUSH OF AN ARMY TRUCK IN LIMA, IN WHICH FIVE SOLDIERS AND ONE CIVILIAN DIED; AND A SERIES OF INEFFECTIVE MORTAR ATTACKS IN MID-OCTOBER AGAINST THE PRESIDENTIAL PALACE, THE U.S. AMBASSADOR'S RESIDENCE AND THE MINISTRY OF THE ARMY. THIS GROUP SUFFERED SERIOUS SETBACKS, HOWEVER, INCLUDING CAPTURE AND INCARCERATION OF SENIOR MRTA LEADERS.

B. DISAPPEARANCE

THE NUMBER OF DISAPPEARANCE CASES IN 1992 REMAINED ROUGHLY THE SAME AS IN 1991. THE PUBLIC MINISTRY REPORTED 145 NEW UNRESOLVED DISAPPEARANCE CASES AS OF NOVEMBER 1992. THE COORDINADORA, USING DIFFERENT CASE TRACKING METHODS, REPORTED 171 AT THAT TIME. THESE NUMBERS ARE LIKELY TO INCREASE AS REPORTS OF DISAPPEARANCES THAT OCCURRED LATE IN 1992 CONTINUE TO BE RECORDED. SENATOR ENRIQUE BERNALES, FORMER CHAIRMAN OF THE RESPECTED SENATE COMMISSION ON VIOLENCE, REPORTED THAT IN 1992 THERE WERE 280 DISAPPEARANCES, AS COMPARED TO 300 IN 1991. ACCORDING TO THE PUBLIC MINISTRY, THE MAJORITY OF ITS FORMAL DISAPPEARANCE COMPLAINTS IMPLICATED MEMBERS OF THE SECURITY FORCES IN THE EMERGENCY ZONES. MOST NEW CASES WERE REPORTED IN SAN MARTIN, JUNIN, AND AYACUCHO DEPARTMENTS. HOWEVER, THE NUMBER OF CASES REPORTED IN METROPOLITAN LIMA INCREASED DRAMATICALLY, FROM SOME 3 PERCENT OF ALL CASES IN 1991 TO ABOUT 15 PERCENT IN 1992.

TESTIMONY FROM SURVIVORS INDICATES THAT MOST VICTIMS ARE TAKEN TO MILITARY BASES FOR INTERROGATION. SOME OF THOSE HELD ARE EVENTUALLY TURNED OVER TO THE CIVILIAN COURT SYSTEM TO BE RELEASED DUE TO LACK OF EVIDENCE OR TO BE IMPRISONED ON

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TERRORISM CHARGES; OTHERS NEVER REAPPEAR. THE RONDAS FIGURED INCREASINGLY IN THE NUMBER OF REPORTED DISAPPEARANCES. RONDAS WERE ALLEGED TO HAVE BEEN INVOLVED IN APPROXIMATELY 3 PERCENT OF DISAPPEARANCE CASES IN 1991 AND 13 PERCENT IN 1992. COMBINED MILITARY/RONDA PATROLS WERE IMPLICATED IN ANOTHER 10 PERCENT OF DISAPPEARANCE CASES IN 1992.

ON JULY 18, PROFESSOR HUGO MUNOZ SANCHEZ AND NINE STUDENTS WERE REPORTEDLY DETAINED BY THE ARMED FORCES DURING A SWEEP OF DORMITORIES AT LA CANTUTA TEACHERS' COLLEGE. THE MILITARY DENIED THE DETENTIONS, BUT TO DATE THE STUDENTS HAVE NOT BEEN SEEN; WRITS OF HABEAS CORPUS WERE IGNORED. (THE ARMED FORCES OCCUPIED LA CANTUTA IN 1991 TO COUNTER PERVASIVE SENDERO LUMINOSO INFLUENCE ON THE CAMPUS.)

AT 2 A.M. JUNE 24, UNIDENTIFIED ARMED AND UNIFORMED ARMY PERSONNEL REPORTEDLY BROKE INTO THE HOME OF JOURNALIST PEDRO YAURI BUSTAMANTE IN HUACHO, LIMA DEPARTMENT. THE MEN BOUND AND GAGGED YAURI AND HIS FATHER, BEAT THEM, AND DROVE AWAY WITH YAURI IN A PICKUP TRUCK. HE WAS NOT SEEN SUBSEQUENTLY. THE HUACHO POLICE REFUSED TO LET YAURI'S FATHER FILE A COMPLAINT, AND THE COURT IN HUACHO DENIED A WRIT OF HABEAS CORPUS. IN MAY CHARGES OF ILLEGAL DETENTION AND ABUSE OF AUTHORITY WERE FILED AGAINST FIVE POLICEMEN IN THE DISAPPEARANCE CASE OF MANUEL PACOTAYPE, MAYOR OF CHUSCHI IN AYACUCHO DEPARTMENT, AND THREE OTHER MEN. THE VICTIMS DISAPPEARED ON MARCH 14, 1991, AND WERE NEVER SEEN AGAIN.

AN UNKNOWN NUMBER OF "DISAPPEARED" PERSONS MAY BE UNACCOUNTED FOR BECAUSE THEY JOINED THE RANKS OF THE MRTA OR SENDERO, EITHER VOLUNTARILY OR UNDER DURESS. IT IS BELIEVED THAT THE NUMBER OF PERSONS FORCIBLY RECRUITED BY SENDERO IS UNDERREPORTED.

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. KNOWLEDGEABLE OBSERVERS REPORTED THAT SUSPECTED SUBVERSIVES HELD BY GOVERNMENT SECURITY FORCES WERE ROUTINELY TORTURED AT MILITARY DETENTION CENTERS. FOUR ARMY OFFICERS DETAINED FOR COUP PLOTTING MADE CREDIBLE CLAIMS THAT THEY HAD BEEN TORTURED BY BEATINGS, ELECTRIC SHOCKS, AND BEING HUNG UP BY THEIR WRISTS WITH THEIR ARMS TIED BEHIND THEIR BACKS. IN 1992 THERE WERE ALSO RELIABLE ACCOUNTS FROM RELEASED DETAINEES OF TORTURE OR MISTREATMENT BY THE POLICE. THERE CONTINUED TO BE CREDIBLE REPORTS OF RAPE PERPETRATED BY ELEMENTS OF THE SECURITY FORCES IN THE EMERGENCY ZONES. IN ONE CASE, AN ARMY LIEUTENANT AND SIX SOLDIERS RAPED 14-YEAR-OLD FROYLI MORI VELA AFTER SEARCHING THE HOUSE IN WHICH SHE AND HER PARENTS WERE STAYING.

WHEN TORTURE OCCURS IT OFTEN TAKES PLACE IN THE PERIOD IMMEDIATELY FOLLOWING DETENTION. THE LAW REQUIRES THAT PERSONS DETAINED FOR TERRORISM BE INTERROGATED IN THE PRESENCE OF A

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PUBLIC MINISTRY PROSECUTOR. RELIABLE REPORTS OF VIOLATIONS OF THESE STANDARDS ARE FREQUENT, ESPECIALLY IN THE EMERGENCY ZONES. THE REQUIREMENT THAT AN ATTORNEY BE PRESENT AT THE INITIAL STAGES OF DETENTION AND INTERROGATION IN TREASON CASES WAS ELIMINATED BY DECREE LAW IN 1992.

MANY VICTIMS OF SENDERO TERRORISM ALSO SHOW SIGNS OF HAVING BEEN TORTURED. TORTURE OF THOSE VICTIMS OFTEN FOLLOWS A BRIEF "PEOPLE'S TRIAL," NORMALLY HELD IN THE PRESENCE OF VILLAGERS AS A METHOD OF INTIMIDATION. THERE ARE CREDIBLE ACCOUNTS THAT SENDERO TORTURES VICTIMS TO DEATH BY MEANS SUCH AS SLITTING THROATS, STRANGULATION, STONING, AND BURNING. MUTILATION OF THE BODY IS COMMON.

PERUVIAN PRISON CONDITIONS ARE APPALLING. PRISONERS ARE EXPOSED TO UNSANITARY FACILITIES, POOR NUTRITION AND HEALTH CARE, AS WELL AS TO HARSH TREATMENT BY BOTH PRISON STAFF AND FELLOW PRISONERS. 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 ARRANGING PRISON ESCAPES. THERE WERE CREDIBLE REPORTS OF ROUTINE BEATINGS AND TORTURE OF INMATES BY PRISON GUARDS. BESIDES BEATINGS, COMMON METHODS OF TORTURE REPORTEDLY INCLUDE ELECTRIC SHOCKS TO SENSITIVE AREAS OF THE BODY, WATER TORTURE, ASPHYXIATION, AND BEING HUNG ON A HOOK FROM A ROPE ATTACHED TO HANDS TIED BEHIND THE BACK. HUMAN RIGHTS GROUPS REPORTED THAT IN JUNE TWO SENDERISTA INMATES DIED OF EXPOSURE AT THE MAXIMUM SECURITY PRISON IN PUNO FOLLOWING THEIR TRANSFER TO THAT FACILITY AFTER POLICE REGAINED CONTROL OF LIMA'S CANTO GRANDE PRISON IN MAY.

D. ARBITRARY ARREST, DETENTION, OR EXILE

THE CONSTITUTION, THE PENAL CODE, AND ANTITERRORIST LEGISLATION 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 JUDICIAL WARRANT IS REQUIRED FOR ARREST, UNLESS A PERPETRATOR IS CAUGHT IN THE ACT. PERSONS ARRESTED MUST BE ARRAIGNED WITHIN 24 HOURS, EXCEPT IN CASES OF TERRORISM, DRUG TRAFFICKING, OR ESPIONAGE, FOR WHICH THE LIMIT IS 15 DAYS. SUSPECTED TERRORISTS CHARGED UNDER NEW 1992 TREASON DECREES MAY BE HELD FOR UP TO 30 DAYS BEFORE ARRAIGNMENT. DETAINEES (IN NONEMERGENCY ZONE AREAS) HAVE THE RIGHT TO CHOOSE THEIR OWN ATTORNEY, OR THE GOVERNMENT MUST PROVIDE COUNSEL AT NO COST. THIS DOES NOT ALWAYS OCCUR IN PRACTICE, AND HUMAN RIGHTS SOURCES REPORT INSTANCES WHERE COURT CLERKS HAVE BEEN DEPUTIZED TO STAND IN AS COUNSEL. THERE IS NO FUNCTIONING BAIL SYSTEM; A FORM OF PROVISIONAL LIBERTY IS AVAILABLE FOR PERSONS NOT ACCUSED OF TERRORISM, ESPIONAGE, OR NARCOTICS OFFENSES.

A PROVISIONAL REGISTRY OF DETAINEES HELD BY BOTH THE MILITARY AND POLICE FOR TERRORISM AND OTHER SECURITY CRIMES BEGAN

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OPERATING IN 1992. POLICE DETENTION CENTERS DO NOT MAKE PUBLICLY AVAILABLE INFORMATION DETAILING DETENTIONS, CHARGES, TRANSFERS, OR RELEASES OF DETAINEES. THE ICRC, HOWEVER, HAS ACCESS TO LOCAL POLICE DETENTION RECORDS AND TO THE NATIONAL MILITARY REGISTRY OF DETAINEES. LOCAL HUMAN RIGHTS ORGANIZATIONS ARE EXPECTED TO HAVE ACCESS TO THE NATIONAL REGISTRY OF DETAINEES IN MILITARY AND POLICE FACILITIES THROUGH THE OFFICE OF THE NATIONAL FISCAL FOR HUMAN RIGHTS.

ARREST PROCEDURES ARE DIFFERENT IN THE EMERGENCY ZONES. SECURITY 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 LEGAL 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 GOVERNMENT FORCES OPERATING IN THE EMERGENCY ZONES. DOZENS OF PERSONS, WHOSE DETENTION THE GOVERNMENT'S SECURITY FORCES HAD INITIALLY DENIED, NONETHELESS WERE LATER FOUND TO HAVE BEEN HELD IN MILITARY DETENTION CENTERS.

IN MID-1991 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 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.

THROUGHOUT 1992 PUBLIC PROSECUTORS GENERALLY CONTINUED TO HAVE ACCESS TO MILITARY INSTALLATIONS IN THE EMERGENCY ZONES, WITH SPORADIC PROBLEMS. THE PROVISION FOR ACCESS TO MILITARY INSTALLATIONS BY THE PUBLIC MINISTRY'S HUMAN RIGHTS OFFICIALS IS RELATIVELY NEW AND COULD REVERSE THE STATUS QUO WHEREBY DETAINEES ARE HELD INCOMMUNICADO AND POSSIBLY DISAPPEAR. NEVERTHELESS, THE NUMBER OF DETAINEES ACTUALLY TURNED OVER TO CIVILIAN AUTHORITIES IS BELIEVED TO BE SMALL IN COMPARISON TO THE NUMBER OF PERSONS THOUGHT TO HAVE ACTUALLY BEEN DETAINED.

AT LEAST 48 PERSONS WERE DETAINED OR PLACED UNDER HOUSE ARREST WITHOUT CHARGES FOLLOWING THE EVENTS OF APRIL 5, INCLUDING FORMER GOVERNMENT MINISTERS, PARLIAMENTARIANS, LABOR LEADERS AND AN ESTIMATED 24 JOURNALISTS. THE GOVERNMENT PERMITTED ICRC VISITS TO MOST OF THE DETAINEES, AND MOST WERE RELEASED WITHIN 10 DAYS. ONLY AGUSTIN MANTILLA, FORMER INTERIOR MINISTER IN THE ALAN GARCIA ADMINISTRATION, REMAINS IN DETENTION.

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GOVERNMENT AND SECURITY OFFICIALS, AS WELL AS INDEPENDENT OBSERVERS, BELIEVE THAT MANTILLA WAS CONNECTED TO THE NOW DEFUNCT COMMANDO RODRIGO FRANCO PARAMILITARY GROUP THAT OPERATED DURING THE GARCIA ADMINISTRATION IN THE LATE 1980'S. HOWEVER, MANTILLA'S DETENTION WAS GENERALLY VIEWED AS POLITICALLY MOTIVATED.

THE CONSTITUTION PROHIBITS FORCED INVOLUNTARY EXILE, AND THERE HAVE BEEN NO SUCH CASES IN THE PAST 10 YEARS.

E. DENIAL OF FAIR PUBLIC TRIAL

THE PERUVIAN LEGAL SYSTEM IS BASED GENERALLY ON THE NAPOLEONIC CODE. DEFENDANTS HAVE THE RIGHT TO BE PRESENT AT THE TRIAL, AT WHICH TIME 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. PRIOR TO APRIL 5, THE 28 SUPREME COURT JUDGES WERE NOMINATED BY THE PRESIDENT (FROM SLATES SUPPLIED BY AN ADVISORY COMMITTEE) AND APPROVED BY THE SENATE. AFTER THE APRIL 5 TAKEOVER, 14 SUPREME COURT JUDGES WERE DISMISSED, AND 3 OTHERS RESIGNED IN PROTEST. PRESIDENT FUJIMORI THEN APPOINTED NEW JUDGES TO A NEW SUPREME COURT CONSISTING OF 18 MEMBERS. THE COURT OF CONSTITUTIONAL GUARANTEES AND THE ADVISORY COMMITTEE MANDATED TO NOMINATE JUDGES WERE BOTH DISBANDED. THE PRESIDENT MAY REPLACE AND APPOINT JUDGES AND PROSECUTORS; IN PRACTICE, THE COURT SYSTEM IS NOT INDEPENDENT OF THE EXECUTIVE BRANCH.

IN SEPTEMBER A NEW DECREE CREATED A JUDICIAL CAREER SYSTEM, IN WHICH FUTURE ENTRY-LEVEL JUDGES WILL BE CHOSEN FROM THE GRADUATES OF THE PLANNED ACADEMY OF HIGHER STUDIES IN THE MINISTRY OF JUSTICE. POST-GRADUATE ACADEMY TRAINING WILL BE A REQUIREMENT FOR PROMOTION THROUGHOUT THE JUDICIAL SYSTEM, INCLUDING THE SUPREME COURT.

THERE CONTINUED TO BE WIDESPREAD CHARGES OF CORRUPTION AND OF THE SUBORNING OF JUDGES, POLICE, AND WITNESSES AT ALL STAGES OF THE JUDICIAL PROCESS. COURTS FACED SEVERE BACKLOGS, A PRODUCT OF INEFFICIENCY, ARCHAIC CASE LAW AND CRIMINAL PROCEDURAL LAW, AND THE SHARP INCREASE IN TERRORISM CASES. THE CASE BACKLOG IN THE SUPREME COURT ALONE WAS 28,000. NO ONE KNOWS THE SIZE OF THE BACKLOG FOR THE ENTIRE JUDICIAL SYSTEM, BUT ESTIMATES RANGE BETWEEN 250,000 AND 500,000 FOR ALL TYPES OF 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 OR LONGER. PRESIDENT FUJIMORI CONTINUED HIS PROGRAM OF PHASED RELEASE OF UNCONVICTED PRISON INMATES AWAITING TRIAL, ESPECIALLY THOSE WHO HAD ALREADY BEEN IN CUSTODY FOR A TIME LONGER THAN THE SENTENCE FOR THE CRIME WITH WHICH THEY HAVE BEEN CHARGED.

THE VAST MAJORITY OF HUMAN RIGHTS COMPLAINTS MADE TO THE PUBLIC PROSECUTOR'S OFFICE DURING THE PAST 10 YEARS WERE NOT INVESTIGATED ADEQUATELY DUE TO LACK OF POLICE AND MILITARY

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COOPERATION, RESOURCES, AND OFFICIAL SUPPORT. PROVINCIAL PROSECUTORS ATTEMPTING TO INVESTIGATE COMPLAINTS IN THE EMERGENCY ZONES WERE THREATENED, OBSTRUCTED, AND REFUSED INFORMATION BY MEMBERS OF THE ARMED FORCES. FOLLOWING A PRESIDENTIAL DECREE IN LATE 1991, ACCESS AND SUPPORT FOR HUMAN RIGHTS PROSECUTORS IMPROVED, BUT COOPERATION BY THE SECURITY FORCES WITH CIVILIAN PROSECUTOR INVESTIGATIONS IS STILL LIMITED, AND THE PROSECUTORS THEMSELVES OFTEN FAILED TO CONDUCT INVESTIGATIONS AGGRESSIVELY.

SENDERO AND MRTA THREATS AND INTIMIDATION OF JUDGES HANDLING TERRORISM CASES ALSO ACCOUNT IN PART FOR THE LOW CONVICTION RATE OF ACCUSED TERRORISTS. SINCE 1981 ONLY 571 PEOPLE HAVE BEEN TRIED AND CONVICTED FOR TERRORISM. ACCORDING TO THE PUBLIC MINISTRY, THIS REPRESENTS A CONVICTION RATE OF APPROXIMATELY 10 PERCENT. THE 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. FOLLOWING THE EVENTS OF APRIL 5, SPECIAL COURTS WERE CREATED TO TRY TERRORISM CASES IN WHICH THE IDENTITY OF THE JUDGES WOULD REMAIN SECRET. AN AUGUST DECREE CLASSIFIED NEARLY ANY TERRORIST ACT AS TREASON, SUBJECT TO TRIAL BY MILITARY TRIBUNAL WITH A MAXIMUM SENTENCE OF LIFE IMPRISONMENT AT HARD LABOR. THE CIVILIAN COURTS WITH SECRET JUDGES BEGAN OPERATING IN SEPTEMBER, AT THE SAME TIME THE MILITARY COURTS BEGAN TO HANDLE TERRORISM CASES. HUMAN RIGHTS GROUPS CRITICIZED THESE DECREES AND PROCEDURES AS A DENIAL OF DUE PROCESS. THESE GROUPS REPORTED THAT OF OVER 70 CASES EXPEDITIOUSLY TRIED BY MILITARY TRIBUNALS, ALL RESULTED IN GUILTY VERDICTS. CIVILIAN "FACELESS JUDGE" COURTS REPORTEDLY ARE AFFECTED BY THE SAME INEFFICIENCY AND INABILITY TO PROCESS CASES THAT PLAGUE THE NORMAL CIVILIAN JUDICIAL SYSTEM.

WITH MOST TERRORISM TRIALS NOW FALLING UNDER MILITARY COURT JURISDICTION, THE PROCEEDINGS BECAME HIDDEN FROM PUBLIC SCRUTINY. DECREE LAWS WERE ISSUED IN 1992 DESIGNED TO SPEED CASE PROCESSING AND ELIMINATE BACKLOGS AND WAITING PERIODS IN TERRORISM CASES. AFTER A 30-DAY INITIAL DETENTION AND INVESTIGATION PERIOD (TWICE THE 15-DAY MAXIMUM PREVIOUSLY ALLOWED), MOST CASES APPEAR TO NOW FALL UNDER THE JURISDICTION OF MILITARY TRIBUNALS, WHICH MUST PASS JUDGMENT ON THE CASES WITHIN 10 DAYS. AN APPEAL MAY BE MADE TO THE WAR COUNCIL, WHICH HAS 10 DAYS TO DECIDE ON THE APPEAL. A FINAL APPEAL TO THE SUPREME COURT OF MILITARY JUSTICE WOULD BE ACTED UPON WITHIN 5 DAYS. NEW DECREES RESTRICTED DEFENSE ATTORNEYS TO ONE ACTIVE TERRORISM CASE EACH.

ON SEPTEMBER 22, A SPECIAL MILITARY TRIBUNAL SENTENCED JUAN CARLOS QUISPE AND EDILBERTO MACALUPU TO LIFE IMPRISONMENT FOR TREASON IN THE SENDERO ASSASSINATION OF POLICE CAPTAIN CARLOS VERAU. THESE LEGAL PROCEEDINGS TOOK A RECORD 20 DAYS, REFLECTING STILL OTHER DECREE LAWS DESIGNED TO SPEED UP DRAMATICALLY THE LEGAL PROCESSING OF TERRORISM CASES.

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ON OCTOBER 7, SENDERO LUMINOSO FOUNDER ABIMAEEL GUZMAN WAS SENTENCED BY SECRET MILITARY TRIBUNAL TO LIFE IMPRISONMENT AND ASSESSED 25 BILLION PLUS INTEREST IN CIVIL DAMAGES FOR "TREASON AGAINST THE STATE." OTHER SENIOR SENDERO LEADERS CAPTURED ALONG WITH GUZMAN ON SEPTEMBER 12 WERE ALSO SENTENCED TO LIFE IN PRISON UNDER THE NEW DECREES. DEFENSE LAWYERS COMPLAINED THAT THE TRIAL PROCEDURES WERE TOO ABBREVIATED, THAT THEY WERE UNABLE TO CROSS-EXAMINE WITNESSES, AND THAT PRESIDENT FUJIMORI HAD IN EFFECT ANNOUNCED THE VERDICT BEFORE THE TRIAL.

GUZMAN'S LAWYER ARGUED THAT GUZMAN WAS A POLITICAL PRISONER NOT SUBJECT TO CRIMINAL PROSECUTION. HOWEVER, GUZMAN PUBLICLY ADMITTED THAT HE WAS THE "PRESIDENT" OF SENDERO LUMINOSO AND WAS RESPONSIBLE FOR WHAT HE TERMED SENDERO'S "WAR" AGAINST THE PERUVIAN STATE. GUZMAN SHOWED NO SIGNS OF PHYSICAL MISTREATMENT AND WAS ALLOWED TO ADDRESS THE PRESS AT LENGTH ON ONE OCCASION. THE NATURE OF THESE TRIALS--SECRET, BRIEF, WITH LITTLE APPARENT TIME FOR THE DEFENSE TO ACT AND LIMITED ABILITY TO CROSS EXAMINE OR IMPEACH WITNESSES--COMBINED WITH A SYSTEM IN WHICH THE MILITARY MAKES ARRESTS, PROSECUTES, AND PASSES JUDGMENT RAISES SERIOUS QUESTIONS ABOUT PERU'S ABILITY TO ENSURE DUE PROCESS FOR PERSONS WHO, UNLIKE GUZMAN, PLEAD INNOCENCE.

THE NEW SUPREME COURT APPARENTLY WILL CONTINUE TO DECIDE WHETHER MILITARY AND POLICE OFFENDERS ARE TRIED IN CIVILIAN COURTS OR IN THE SEPARATE MILITARY COURT SYSTEM. THE MILITARY GENERALLY ASSERTS ITS JURISDICTION IN CASES INVOLVING ITS PERSONNEL, AND THE SUPREME COURT HAS GENERALLY RULED IN ITS FAVOR. UNDER PERUVIAN LAW, THOSE TRIED IN MILITARY COURTS MAY NOT BE RETRIED FOR THE SAME OFFENSE IN CIVILIAN COURTS.

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

THE CONSTITUTION REQUIRES POLICE TO HAVE 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.

WITH TRAINING AND ENCOURAGEMENT BY THE ARMY, A NUMBER OF RURAL COMMUNITIES ORGANIZED RONDAS TO PROTECT THEMSELVES AGAINST TERRORIST AND BANDIT INCURSIONS. THEY HAVE HAD A NOTICEABLE IMPACT ON CURBING SENDERO'S PRESENCE IN CERTAIN AREAS OF THE COUNTRY. IN SOME PARTS OF THE NATION, RONDAS HAVE EXISTED FOR CENTURIES AS A FORM OF SOCIAL ORGANIZATION AND TO PROTECT RESIDENTS FROM INVADERS AND RUSTLERS. IN MOST CASES, PEASANTS JOINED RONDAS VOLUNTARILY TO DEFEND AGAINST SENDERO. HOWEVER, MANY OF THE NEWER RONDAS WERE ACTIVELY ORGANIZED, AND SOMETIMES IMPOSED, UNDER THE DIRECTION OF THE MILITARY AUTHORITIES, WITH PEASANTS SOMETIMES COERCED INTO PARTICIPATING IN RONDA ACTIVITIES. CREDIBLE REPORTS INDICATE SOME RONDAS ENGAGE IN OR SUPPORT ILLEGAL ACTIVITIES, FROM CATTLE RUSTLING TO PROTECTION OF THE COCA INDUSTRY. SENDERO IS ALSO CREDIBLY ACCUSED OF REGULARLY FORCING PEASANTS TO JOIN ITS MILITARY RANKS, OFTEN

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FOR EXTENDED PERIODS, AND COERCING THEIR PARTICIPATION IN TERRORIST ATTACKS AND EXECUTIONS.

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

THE CONSTITUTION PROVIDES FOR FREEDOM OF SPEECH AND THE PRESS. WITH 8 TELEVISION STATIONS, 1 CABLE TELEVISION SYSTEM, 72 RADIO STATIONS, AND 18 DAILY NEWSPAPERS IN LIMA ALONE, PERUVIANS HAVE ACCESS TO A BROAD RANGE OF OPINION AND INFORMATION. THE GOVERNMENT OWNS ONE OF THE THREE NATIONAL TELEVISION NETWORKS, A RADIO NETWORK, AND ONE NEWSPAPER. MOST MAJOR OPPOSITION PARTIES BOAST THEIR OWN NEWSPAPER, AND OPPOSITION FIGURES ALSO HAVE FREQUENT ACCESS TO THE GOVERNMENT MEDIA.

FOLLOWING THE APRIL 5 TAKEOVER, THE GOVERNMENT OCCUPIED PRINT AND BROADCAST MEDIA OFFICES, CLOSED A RADIO STATION AND A WEEKLY LEFTIST NEWSPAPER, AND BRIEFLY JAILED SOME 24 JOURNALISTS. THOUGH THE MEASURES WERE WITHDRAWN WITHIN 48 HOURS WITH AN APOLOGY FROM THE PRESIDENT, MANY MEDIA SOURCES EXPRESSED CONCERN THAT SUCH ACTIONS COULD BE REPEATED.

A NUMBER OF JOURNALISTS REPORTED RECEIVING PHONE CALLS FROM UNIDENTIFIED SOURCES WARNING THEM OFF STORIES THAT MIGHT REFLECT ADVANCES BY SENDERO OR LACK OF PROGRESS BY THE GOVERNMENT IN THE FIGHT AGAINST TERRORISM. ON THE NIGHT OF APRIL 5, GUSTAVO GORRITI, A WELL-KNOWN JOURNALIST AND THE AUTHOR OF A BOOK ON SENDERO LUMINOSO, WAS ARRESTED AND TAKEN INTO CUSTODY, REPORTEDLY BY AGENTS FROM THE NATIONAL INTELLIGENCE SERVICE (SIN). GORRITI'S COMPUTER WAS CONFISCATED AND AUTHORITIES SOUGHT OTHER RECORDS AND INFORMATION GORRITI HAD GATHERED FOR THE SEQUEL TO HIS FIRST BOOK. GORRITI WAS RELEASED AFTER 2 DAYS, FOLLOWING INTENSE U.S. GOVERNMENT AND INTERNATIONAL PROTEST. HUMAN RIGHTS OBSERVERS BELIEVE GORRITI'S DETENTION WAS CONNECTED TO A LONG-STANDING PUBLIC FEUD WITH PRESIDENTIAL SECURITY ADVISOR VLADIMIRO MONTESINOS.

ENRIQUE ZILERI, PUBLISHER OF THE INFLUENTIAL WEEKLY NEWS MAGAZINE CARETAS, LOST A FINAL APPEAL AGAINST A COURT SUIT FOR LIBEL FILED BY MONTESINOS. ZILERI HAD PUBLISHED AN ARTICLE ABOUT MONTESINOS AND HIS WORK AS A LAWYER FOR A COLOMBIAN DRUG DEALER. A RESTRAINING ORDER PROHIBITED ZILERI AND CARETAS FROM MENTIONING MONTESINOS' NAME OR PUBLISHING HIS PHOTO. MANY JOURNALISTS AND LEGAL PROFESSIONALS FELT THIS ACTION HAD NO REAL LEGAL BASIS, SINCE THE BASIC ALLEGATION WAS BACKED UP BY OFFICIAL RECORDS AND THERE WAS NO ARGUMENT THAT THE MATERIAL PUBLISHED MET ANY OF THE BASIC STANDARDS FOR LIBEL.

SOME JOURNALISTS WERE JAILED ON SUSPICION OF SUBVERSIVE ACTIVITIES. IN SEPTEMBER THE GOVERNMENT ARRESTED MAGNO SOSA, A JOURNALIST BASED IN AYACUCHO, ON TERRORISM CHARGES. THE GOVERNMENT HAS NOT PROVIDED ANY EVIDENCE AGAINST SOSA, WHO HAD WRITTEN ARTICLES CRITICAL OF THE GOVERNMENT, BUT HE REMAINED UNDER DETENTION. IN DECEMBER THE DEFENSE MINISTER ASKED THE

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ATTORNEY GENERAL TO SUE SI MAGAZINE EDITOR RICARDO UCEDA FOR PUBLISHING A STORY THAT ALLEGED THAT NATIONAL INTELLIGENCE AND ARMY PERSONNEL HAD CARRIED OUT THE 1991 BARRIOS ALTOS MASSACRE.

MEDIA SOURCES EXPRESSED CONCERN OVER LEGISLATIVE DECREE NUMBER 25475, A VAGUELY WORDED ORDINANCE WHICH HOLDS JOURNALISTS WHO ALLEGEDLY ASSIST "SEDITIONARY FORCES" IN ANY WAY LIABLE TO CRIMINAL PROSECUTION. FIRST PROMULGATED BY THE EXECUTIVE BRANCH BEFORE THE EVENTS OF APRIL 5 BUT DEROGATED BY CONGRESS, PRESIDENT FUJIMORI REINSTATED THE DECREE AFTERWARDS. ITS EXISTENCE, SAY MEDIA REPRESENTATIVES, "HANGS LIKE A SWORD OF DAMOCLES" OVER JOURNALISTS.

IN SEPARATE ACTIONS MRTA AND SENDERO FORCES OCCUPIED THE 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. THE COLLEGE OF PERUVIAN JOURNALISTS REPORTED THAT AS MANY AS 40 JOURNALISTS HAVE BEEN KILLED IN THE PAST 12 YEARS, MANY BY SENDERO VIOLENCE. ON JUNE 5, A SENDERO CAR BOMB EXPLODED OUTSIDE LIMA'S CHANNEL 2 TELEVISION STATION, KILLING AT LEAST 5 PERSONS AND INJURING OVER 20. ON AUGUST 3, SANTIAGO JAU GOMEZ WAS KILLED BY A SENDERO ASSASSINATION TEAM FOR HAVING REFUSED TO OBEY AN "ARMED STRIKE" IN BARRANCA, NORTHERN LIMA DEPARTMENT.

ACADEMIC FREEDOM IS GENERALLY MORE RESPECTED BY THE GOVERNMENT THAN BY THE SUBVERSIVES, WHO STRIVE TO CONTROL MANY UNIVERSITIES. SENDERO AND MRTA RESORT EXTENSIVELY TO THREATS AND ABUSE AGAINST FACULTY, STAFF, AND STUDENTS IN A NUMBER OF UNIVERSITIES WHICH THEY SEEK TO CONTROL. SENDERO INFLUENCE WAS MOST NOTABLE AT THE UNIVERSITY OF SAN MARCOS, LA CANTUTA TEACHERS' UNIVERSITY, THE NATIONAL ENGINEERING UNIVERSITY (ALL IN LIMA), AND THE UNIVERSIDAD DEL CENTRO IN HUANCAYO. ARMY UNITS ENTERED SAN MARCOS AND LA CANTUTA IN MAY 1991 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 BE DENIED ONLY FOR REASONS OF PUBLIC SAFETY OR HEALTH. MUNICIPAL AUTHORITIES USUALLY APPROVED PERMITS FOR DEMONSTRATIONS IN LIMA AND NONEMERGENCY ZONES. MANY UNAUTHORIZED PUBLIC MEETINGS AND DEMONSTRATIONS ALSO OCCURRED, AND, FOR THE MOST PART, THE GOVERNMENT DEALT WITH THEM IN A NONCONFRONTATIONAL MANNER. THE POLICE HAVE OCCASIONALLY USED CLUBS, TEAR GAS, AND WATER CANNONS TO BREAK UP MARCHES OR DISPERSE LARGE CROWDS, BUT THIS HAS BEEN THE EXCEPTION AND NOT THE RULE. THESE TACTICS WERE MOSTLY USED AGAINST STRIKING PUBLIC SERVICE WORKERS, INCLUDING NURSES,

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SCHOOL TEACHERS, AND SOCIAL SECURITY WORKERS.

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 RIGHTS ARE RESPECTED IN PRACTICE.

SENDERO LUMINOSO ISSUED DEATH THREATS AGAINST MEMBERS OF VARIOUS RELIGIOUS ORGANIZATIONS DURING 1992, INCLUDING THE ROMAN CATHOLIC CHURCH. SENDERO DEMONSTRATED INCREASING ANTAGONISM TO ORGANIZED RELIGION IN GENERAL AND TO FOREIGN CLERGY IN PARTICULAR. SEVERAL RELIGIOUS WORKERS WERE KILLED BY SENDERO IN 1991 AND 1992, INCLUDING AN ITALIAN PRIEST IN OCTOBER 1992 AND PERUVIAN PRESBYTERIANS IN JUNE.

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. LAX CONTROLS AT CHECKPOINTS ALLOW INTERNAL TRAVEL IN SECURITY ZONES WITH LITTLE OFFICIAL INTERFERENCE. ON JUNE 10, FOLLOWING A SPATE OF SERIOUS SENDERO TERRORIST ATTACKS IN LIMA, THE GOVERNMENT ORDERED A NIGHTTIME VEHICULAR CURFEW FOR THE METROPOLITAN AREA, WHICH REMAINED IN EFFECT UNTIL DECEMBER 2. AT LEAST THREE PERSONS WERE SHOT TO DEATH BY SOLDIERS WHEN THEY FAILED TO OBEY COMMANDS TO STOP DURING CURFEW HOURS. PEDESTRIAN TRAFFIC AND LIMITED VEHICULAR TRAFFIC WITH OFFICIAL PASSES WAS PERMITTED. OTHER DOMESTIC AND INTERNATIONAL TRAVEL IS NOT RESTRICTED BY THE GOVERNMENT FOR POLITICAL REASONS.

SENDERO CONDUCTED NUMEROUS "ARMED STRIKES" IN VARIOUS PARTS OF THE COUNTRY, DURING WHICH CIVILIANS WERE OBLIGED TO STAY HOME OR RISK REPRISALS. PUBLIC AND PRIVATE VEHICLES OPERATING DURING THE STRIKES WERE SUBJECT TO ATTACK. IN JULY SENDERO BURNED A TAXI DRIVER TO DEATH IN HIS VEHICLE IN LIMA. IN SEPTEMBER SENDERO AMBUSHED SEVERAL VEHICLES TRAVELING IN A REMOTE PART OF AYACUCHO ON A MAIN ROUTE, BURNING THE VEHICLES AND KILLING AT LEAST FIVE PERSONS. BANDIT AMBUSHES OF VEHICLES, ESPECIALLY INTER-PROVINCIAL BUSES, CONTINUED IN 1992. SOME BANDITS WERE FOUND TO HAVE BEEN OFF-DUTY POLICE OFFICERS.

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

PRESIDENT FUJIMORI, ELECTED TO OFFICE IN 1990, INTERRUPTED THE DEMOCRATIC PROCESS ON APRIL 5, 1992 BY DISSOLVING CONGRESS AND

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SUSPENDING THE INDEPENDENT JUDICIARY, WITH MILITARY AND POLICE SUPPORT. HE CLAIMED THAT RAMPANT CORRUPTION AND INSTITUTIONAL INEFFICIENCY INSIDE THE GOVERNMENT AND CONGRESSIONAL OBSTRUCTIONISM FORCED HIM TO ESTABLISH A "GOVERNMENT OF EMERGENCY AND NATIONAL RECONSTRUCTION" UNDER HIS DIRECT CONTROL. THE PRESIDENT CHARGED THAT THE CONGRESS, THE POLITICAL PARTIES, AND THE JUDICIARY HAMSTRUNG HIS ABILITY TO ADDRESS EFFECTIVELY WHAT HE TERMED THE NATION'S MOST IMPORTANT PROBLEM, THE GROWING THREAT POSED BY SENDERO LUMINOSO. OPPOSITION POLITICAL PARTIES CLAIMED THAT THE GOVERNMENT REBUFFED REPEATED EFFORTS TO ENGAGE IN A DIALOG. THE APRIL 5 EVENTS OCCURRED AS CONGRESS WAS INITIATING AN INDEPENDENT INVESTIGATION OF CORRUPTION CHARGES MADE BY THE WIFE OF PRESIDENT FUJIMORI AGAINST OTHER MEMBERS OF THE PRESIDENT'S FAMILY. THOSE CHARGES WERE SUBSEQUENTLY DISMISSED BY THE FUJIMORI-CONTROLLED JUDICIARY.

WHILE THERE WAS STRENUOUS CONDEMNATION OF PRESIDENT FUJIMORI'S EXTRACONSTITUTIONAL ACTION BY THE INTERNATIONAL COMMUNITY AND MOST OF PERU'S POLITICAL ELITE, WHAT HE DID WAS POPULAR AMONG THE MAJORITY OF PERUVIANS, ESPECIALLY THOSE FROM THE MORE DISADVANTAGED CLASSES. WITH UNFETTERED CONTROL OF THE GOVERNMENT, FUJIMORI QUICKLY ISSUED A SERIES OF DECREE LAWS AND OTHER MEASURES INTENDED TO REFORM THE GOVERNMENT AND THE ECONOMY, MANY OF WHICH HAD PREVIOUSLY BEEN REJECTED OR MODIFIED BY THE DEPOSED CONGRESS.

ON MAY 18, AT A SPECIAL MEETING OF FOREIGN MINISTERS OF THE ORGANIZATION OF AMERICAN STATES (OAS), PRESIDENT FUJIMORI MADE A COMMITMENT TO THEM THAT ELECTIONS WOULD BE HELD FOR A CONSTITUENT CONGRESS. AFTER SEVERAL CHANGES IN THE TIMETABLE AND OTHER DETAILS, ELECTIONS WERE HELD ON NOVEMBER 22, 1992, FOR AN 80-MEMBER DEMOCRATIC CONSTITUENT CONGRESS (CCD) TO REWRITE THE CONSTITUTION, PROMULGATE NEW LAWS, AND REVIEW PREVIOUS LEGISLATION. THE NEW CONGRESS IS TO SERVE OUT THE PREVIOUS CONGRESS' TERM UNTIL JULY 28, 1995.

AFTER A DIALOG WITH SOME OF THE SMALLER PARTIES, THE PRESIDENT DICTATED DECREES REGULATING THE CCD ELECTIONS. MAJOR OPPOSITION PARTIES BRIEFLY JOINED TALKS WITH THE GOVERNMENT, BUT THEN REFUSED TO ENGAGE FURTHER, CHARGING THE GOVERNMENT WITH NOT ACCEPTING GENUINE DIALOG. SEVERAL TRADITIONAL OPPOSITION POLITICAL PARTIES AND NEW INDEPENDENT POLITICAL GROUPINGS EVENTUALLY PARTICIPATED IN THE CCD ELECTIONS, ALBEIT MANY WITH RESERVATIONS. THE TWO LARGEST TRADITIONAL PARTIES, THE AMERICAN POPULAR REVOLUTIONARY ALLIANCE (APRA) AND POPULAR ACTION (AP), REFUSED TO PARTICIPATE. THE FAIRNESS OF THE ELECTION RULES WAS WIDELY CRITICIZED, AND THE EXTENT TO WHICH THE CCD WOULD EXERCISE POWER INDEPENDENT OF THE EXECUTIVE BRANCH WAS QUESTIONED. THE ELECTIONS WERE MONITORED, AT THE GOVERNMENT'S REQUEST, BY OVER 200 OAS OBSERVERS. THESE OBSERVERS, AS WELL AS DOMESTIC ONES, CONCLUDED THAT THE ELECTIONS WERE CONDUCTED FREELY AND FAIRLY, WITH SIGNIFICANT POPULAR PARTICIPATION. MOST DEFICIENCIES WERE DUE TO THE LACK OF TRAINING AND EXPERIENCE OF ELECTORAL WORKERS.

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A COUP ATTEMPT IN NOVEMBER UNDERSCORED THE FRAGILITY OF THE GOVERNMENT AND THE NEED FOR A PROMPT RETURN TO DEMOCRACY. THE PRESIDENT CLAIMED THAT COUP PLOTTERS, PLUS SEVERAL PROMINENT OPPOSITION POLITICIANS, HAD SOUGHT TO KILL HIM. NO PROOF, HOWEVER, WAS MADE PUBLIC. SEVERAL MILITARY OFFICERS WERE JAILED PENDING TRIAL. BY THE END OF THE YEAR, TWO POLITICIANS AND TWO BUSINESSMEN ALLEGEDLY INVOLVED IN THE COUP ATTEMPT CLAIMED POLITICAL ASYLUM OUTSIDE PERU, ASSERTING THE GOVERNMENT WAS PERSECUTING THEM.

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

A NUMBER OF LOCAL PRIVATE HUMAN RIGHTS ORGANIZATIONS JOINED TO FORM THE INDEPENDENT NATIONAL COORDINATING COMMITTEE FOR HUMAN RIGHTS, KNOWN AS THE COORDINADORA. THESE INCLUDE THE COMMISSION FOR HUMAN RIGHTS, THE INSTITUTE FOR LEGAL DEFENSE, THE ASSOCIATION FOR HUMAN RIGHTS, THE CATHOLIC CHURCH'S EPISCOPAL COMMISSION FOR SOCIAL ACTION, AND THE CENTER FOR STUDIES AND ACTION FOR PEACE. SEVERAL SMALLER GROUPS WORK IN THE DEPARTMENTAL CAPITALS AND OTHER CITIES. THESE GROUPS ARE WIDELY CONSIDERED TO BE CREDIBLE, THOROUGH, AND IMPARTIAL OBSERVERS. LOCAL GROUPS PRODUCED DOCUMENTARY EVIDENCE OF THEIR LONGSTANDING AND STRENUOUS DENUNCIATIONS OF SENDERO LUMINOSO AS THE SINGLE LARGEST VIOLATOR OF HUMAN RIGHTS IN PERU, WHILE SIMULTANEOUSLY DENOUNCING THE MANY VIOLATIONS COMMITTED BY MEMBERS OF THE PERUVIAN GOVERNMENT.

PRESIDENT FUJIMORI NONETHELESS REPEATEDLY ACCUSED SOME INTERNATIONAL AND NATIONAL HUMAN RIGHTS GROUPS OF FAILING TO CONDEMN EQUALLY THE HUMAN RIGHTS OFFENSES COMMITTED BY THE TERRORISTS, THUS SERVING THE ENDS OF TERRORISM. HIS REPEATED ATTACKS ON HUMAN RIGHTS ORGANIZATIONS WERE SYMPTOMATIC OF THE DIFFICULT WORKING ENVIRONMENT THESE GROUPS FACE IN PERU. 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. IN A CASE THAT OCCURRED PRIOR TO THE CAPTURE OF GUZMAN, JOSE RAMIREZ GARCIA, A HUMAN RIGHTS MONITOR AND WRITER ON POLITICAL VIOLENCE FROM CUZCO, WAS DETAINED IN AUGUST, ACCORDING TO RELIABLE REPORTS, FOR PHOTOCOPYING A BOOK ABOUT THE SHINING PATH AND FOR ALLEGEDLY HAVING SENDERO LITERATURE IN HIS HOME. HE WAS TRIED AND RELEASED.

FOLLOWING THE SEPTEMBER 12 ARREST OF GUZMAN, THE GOVERNMENT AND THE MEDIA PUBLISHED THE IDENTITIES OF PRESUMED SENDERO LEADERS LIVING ABROAD AND INSIDE PERU. SEVERAL OF THOSE IDENTIFIED WERE RESPECTED MEMBERS OF LOCAL SELF-HELP OR HUMAN RIGHTS ORGANIZATIONS. HUMAN RIGHTS GROUPS EXPRESSED CONCERN THAT THE GOVERNMENT WAS TRYING TO LIMIT THEIR EFFECTIVENESS BY TARRING LEGITIMATE HUMAN RIGHTS ACTIVISTS AS SENDERO SUPPORTERS. FOR

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EXAMPLE, CARLOS CHIPOCO, A RESPECTED HUMAN RIGHTS ACTIVIST, WAS INCLUDED ON A LIST COMPILED BY SECURITY SERVICES OF PERSONS ALLEGEDLY SYMPATHETIC TO SENDERO. THE GOVERNMENT PROVIDED NO EVIDENCE AGAINST CHIPOCO, NOR WAS HE CHARGED WITH ANY CRIME.

SEVERAL FOREIGN NONGOVERNMENTAL HUMAN RIGHTS ORGANIZATIONS SENT REPRESENTATIVES TO PERU DURING 1992 TO INVESTIGATE THE HUMAN RIGHTS SITUATION. THE PRESIDENT OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (IAHRC) VISITED PERU IN MAY AND AMERICAS WATCH SENT A DELEGATION IN JULY. THE IAHRC PRESIDENT WAS DENIED ACCESS TO LIMA'S MAXIMUM SECURITY CANTO GRANDE PRISON, BUT MET WITH PRIME MINISTER OSCAR DE LA PUENTE. SEVERAL HUMAN RIGHTS GROUPS AND THE ICRC WERE INVITED TO PARTICIPATE IN SEMINARS AND TO OFFER HUMAN RIGHTS INSTRUCTION AT MILITARY AND POLICE ACADEMIES.

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 ACCESS BY WOMEN TO LEADERSHIP ROLES IN MAJOR SOCIAL AND POLITICAL INSTITUTIONS. PRESIDENT FUJIMORI APPOINTED BLANCA NELIDA COLAN AS ATTORNEY GENERAL AND MARIA HERMINIA DRAGO CORREA AS NATIONAL COMPTROLLER, BUT HAS NO WOMEN IN HIS CABINET.

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

PERU'S LARGE INDIGENOUS POPULATION AND ITS SMALL BLACK POPULATION FACE PERVASIVE DISCRIMINATION AND SOCIAL PREJUDICE. INDIGENOUS PEOPLE, MOSTLY SPEAKERS OF QUECHUA, AYMARA, AND OTHER NATIVE LANGUAGES, TRADITIONALLY LACK ACCESS TO PUBLIC SERVICES AND SUPPORT. PERUVIAN PUBLIC INVESTMENT IS FOCUSED LARGELY ON THE COAST, DRAWING IMPOVERISHED MIGRANTS TO THE CITIES, ESPECIALLY LIMA. RECOGNIZING THIS FACT, THE GOVERNMENT ANNOUNCED PLANS 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 DELIBERATE DISRUPTION OF THESE EFFORTS BY SENDERO.

SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

THE CONSTITUENT ASSEMBLY ELECTED ON NOVEMBER 22 IS TO REWRITE THE 1979 CONSTITUTION. THAT CONSTITUTION PROVIDED FOR FREEDOM

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OF ASSOCIATION AND, WITH THE EXCEPTION OF JUDICIARY, POLICE, MILITARY, AND MILITARY PARASTATALS, THE RIGHT TO FORM TRADE UNIONS WITHOUT PRIOR AUTHORIZATION. A LABOR UNION MAY BE SUSPENDED OR DISSOLVED UNDER THE 1979 CONSTITUTION ONLY UPON REQUEST OF THE UNION OR UPON CANCELLATION OF ITS REGISTRATION. UNIONS, INDUSTRY-WIDE FEDERATIONS, AND CONFEDERATIONS ALL FREELY AFFILIATE WITH INTERNATIONAL LABOR ORGANIZATIONS.

A COMPREHENSIVE LABOR LAW WAS PROMULGATED IN 1992, WHICH FOR THE FIRST TIME DEFINES, AND INHERENTLY LIMITS, THE NATURE OF A TRADE UNION. PRESIDENT FUJIMORI HAS DECLARED THAT THE NEW LAW IS NECESSARY TO ESTABLISH A FREE AND COMPETITIVE LABOR MARKET WHICH WILL INCREASE INVESTMENT AND EMPLOYMENT. THE NEW LAW, AS CLARIFIED BY IMPLEMENTING REGULATIONS, DOES NOT REQUIRE PRIOR GOVERNMENT AUTHORIZATION TO FORM A UNION, BUT PROVIDES FOR A LEGAL RECOGNITION PROCESS. IT ALLOWS FOR MULTIPLE FORMS OF UNIONS ACROSS COMPANY AND PROFESSIONAL LINES, THUS PERMITTING MULTIPLE UNIONS IN THE SAME COMPANY. THE 1992 LAW ENUMERATES THE TYPES OF ACTIVITY IN WHICH UNIONS MAY ENGAGE, BUT PROHIBITS POLITICAL ACTIVITY, COERCION, OR ILLEGAL USE OF UNION FUNDS, AND IMPOSES NEW RECORD KEEPING AND REPORTING OBLIGATIONS ON UNIONS. CANDIDATES FOR UNION OFFICE MUST BE EMPLOYED AT LEAST 1 YEAR IN THE COMPANY. PRIVATE AND PUBLIC SECTOR UNIONS IN THE SAME FIELD MAY NOT JOIN TOGETHER. WORKERS IN PROBATIONARY STATUS OR ON 1-YEAR CONTRACTS ARE NOT ELIGIBLE FOR UNION MEMBERSHIP. IT IS ESTIMATED THAT 60 PERCENT OF THE COUNTRY'S LABOR FORCE WORKS IN THE INFORMAL SECTOR. IN THE FORMAL PERUVIAN ECONOMY, PROBABLY LESS THAN 15 PERCENT OF THE LABOR FORCE IS ORGANIZED.

THE 1979 CONSTITUTION PROVIDES THE RIGHT TO STRIKE "ACCORDING TO LAW." THE NEW LAW ESTABLISHES THAT STRIKES MAY BE CALLED ONLY AFTER APPROVAL BY ALL WORKERS, NOT JUST UNION MEMBERS, VOTING WITH SECRET BALLOTS. STRIKES IN ESSENTIAL PUBLIC SERVICES MUST PROVIDE SUFFICIENT WORKERS, AS DETERMINED BY THE EMPLOYER, TO MAINTAIN OPERATIONS. THE 1992 LAW SPECIFIES THE CONDITIONS UNDER WHICH A STRIKE MAY BE DECLARED ILLEGAL, WHICH INCLUDE STRIKING IN DEFIANCE OF AN ORDER NOT TO STRIKE, ANY VIOLENCE, STRIKES IN THE PUBLIC SECTOR EXCEPT AS NOTED ABOVE, OR FAILURE TO TERMINATE A STRIKE FOLLOWING AN AGREEMENT TO TERMINATE. MOST STRIKES IN PERU IN RECENT YEARS HAVE BEEN DETERMINED TO BE ILLEGAL.

SEVERAL COMPLAINTS AGAINST PERU INVOLVING FREEDOM OF ASSOCIATION OR COLLECTIVE BARGAINING RESTRICTIONS WERE EXAMINED BY SUPERVISORY BODIES OF THE INTERNATIONAL LABOR ORGANIZATION (ILO) IN 1992. THE ILO GOVERNING BODY AT SEVERAL OF ITS MEETINGS, FOR EXAMPLE, EXPRESSED DEEP CONCERN AT ALLEGATIONS OF MURDERS, DISAPPEARANCES, AND ATTACKS ON TEACHER TRADE UNIONISTS DURING A STRIKE IN 1991 AND URGED THE GOVERNMENT TO DETERMINE THE WHEREABOUTS OF FOUR MISSING TRADE UNIONISTS. AT YEAR'S END THE GOVERNING BODY HAD UNDER EXAMINATION ANOTHER COMPLAINT DEALING WITH MILITARY AND POLICE INTERVENTION AT TRADE UNION HEADQUARTERS AND THE DETENTION OF TRADE UNION OFFICIALS DURING THE EMERGENCY MEASURES OF APRIL. UNION ACTIVISTS HAVE ALSO

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BEEN THREATENED BY TERRORIST GROUPS. IN DECEMBER PEDRO HUILLCA BECAME THE THIRD LABOR LEADER TO BE MURDERED IN 1992 IN A TERRORIST-TYPE ATTACK.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

WHILE THE RIGHT TO BARGAIN COLLECTIVELY IS CONSTITUTIONALLY GUARANTEED, THERE ARE RESTRICTIONS. UNDER THE 1992 LAW BARGAINING AGREEMENTS ARE NOW CONSIDERED CONTRACTUAL AGREEMENTS VALID ONLY FOR THE LIFE OF THE CONTRACT. PRODUCTIVITY PROVISIONS MUST BE INCLUDED IN ANY COLLECTIVE BARGAINING AGREEMENT. THE AMOUNT OF TIME UNION OFFICIALS MAY DEVOTE TO UNION WORK WITH PAY IS LIMITED TO 30 DAYS PER YEAR. IF THERE IS NO EXISTING LABOR CONTRACT AT THE PROFESSIONAL OR INDUSTRY LEVEL, UNIONS MUST NEGOTIATE WITH EACH COMPANY INDIVIDUALLY; UNLESS THE AFFECTED EMPLOYERS AGREE TO INDUSTRY-WIDE NEGOTIATIONS.

UNIONS MUST PRESENT THEIR CONTRACT DEMANDS 30 TO 60 DAYS BEFORE EXPIRATION OF EXISTING CONTRACTS. EMPLOYERS ARE NOW REQUIRED TO DISCLOSE ESSENTIAL FINANCIAL DATA TO UNIONS, WHICH UNIONS ARE REQUIRED TO KEEP CONFIDENTIAL. THE UNION MAY REQUEST BINDING ARBITRATION, AND THE LABOR MINISTRY CAN CHOOSE AN ARBITRATOR IF PARTIES CANNOT AGREE. WORKERS, HOWEVER, MAY OPT FOR A STRIKE IN LIEU OF ARBITRATION, BUT THIS HAS NOT YET BEEN TESTED. THE MINISTRY MAY IMPOSE COMPULSORY BINDING ARBITRATION IN THE CASE OF ESSENTIAL SERVICES IF AGREEMENT IS NOT REACHED THROUGH NEGOTIATIONS OR CONCILIATION.

"CERTAIN WORKERS," NOT FURTHER DEFINED, ARE PROTECTED AGAINST ARBITRARY DISMISSAL UNDER THE 1992 LABOR LAW. ALTHOUGH DISCRIMINATION AGAINST UNION MEMBERS OR ORGANIZERS IS ILLEGAL, EMPLOYERS MAKE FULL USE OF VARIOUS LEGAL MECHANISMS TO MINIMIZE A UNION PRESENCE. IN PRACTICE OUTRIGHT HARASSMENT OF UNION MEMBERS BY EMPLOYERS IS UNCOMMON. UNION ACTIVISTS HAVE BEEN THREATENED BY TERRORIST GROUPS.

LABOR LAWS AND REGULATIONS ARE APPLIED UNIFORMLY THROUGHOUT THE COUNTRY.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

THE CONSTITUTIONAL PROHIBITION AGAINST COMPULSORY LABOR IS GENERALLY RESPECTED. IN 1991 A PENAL CODE PROVISION WAS REPEALED UNDER WHICH A JUDGE COULD COMMIT A "SAVAGE" TO A PENAL AGRICULTURAL COLONY INVOLVING COMPULSORY LABOR FOR AN UNSPECIFIED PERIOD UP TO 20 YEARS, IRRESPECTIVE OF THE MAXIMUM SENTENCE THAT WOULD BE APPLICABLE IF HIS CRIME HAD BEEN COMMITTED BY A "CIVILIZED MAN." THE GOVERNMENT'S PRESENCE OUTSIDE OF METROPOLITAN AREAS IS, HOWEVER, LIMITED. IN THE PAST THERE HAVE BEEN UNVERIFIED REPORTS OF COMPULSORY LABOR ON PLANTATIONS IN REMOTE AREAS. SENDERO LUMINOSO ALSO ENGAGES IN FORCIBLE RECRUITMENT OF CADRES AND WORKERS.

D. MINIMUM AGE FOR EMPLOYMENT OF CHILDREN

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CHILDREN UNDER 14 MAY NOT BE LEGALLY EMPLOYED. CHILDREN AGES 16 TO 21 MAY CONSTITUTE UP TO 15 PERCENT OF A COMPANY'S WORK FORCE AND MAY BE EMPLOYED FOR PERIODS NOT TO EXCEED 18 MONTHS. WORKERS BETWEEN 14 AND 24 MUST HAVE COMPLETED THEIR PRIMARY SCHOOLING BEFORE BEING HIRED IN APPRENTICE PROGRAMS AND ARE ENTITLED TO RECEIVE THE MINIMUM WAGE. MINIMUM AGE LAWS FOR CHILD EMPLOYMENT ARE NOT WIDELY ENFORCED. CHILDREN OF ALL AGES WORK IN THE INFORMAL SECTOR.

E. ACCEPTABLE CONDITIONS OF WORK

MOST WAGES LAG BEHIND THE COST OF LIVING, AND MANY PERUVIANS MUST SEEK SECONDARY EMPLOYMENT TO SUPPLEMENT THEIR INCOMES. THE LEGAL MINIMUM WAGE IS INSUFFICIENT TO PROVIDE BASIC REQUIREMENTS FOR A WORKER AND FAMILY. A SEPTEMBER 1990 WORLD BANK REPORT INDICATED THAT 55 PERCENT OF ALL PERUVIANS LIVE IN EXTREME POVERTY, AND ECONOMIC CONDITIONS HAVE NOT IMPROVED SINCE THEN.

THE LABOR CODE PROVIDES FOR AN 8-HOUR DAY AND AN OFFICIAL 48-HOUR WORKWEEK FOR MEN AND A 45-HOUR WORKWEEK FOR WOMEN, INCLUDING 24 HOURS' REST PER WEEK AND 30 DAYS' PAID ANNUAL VACATION. GIVEN JOB COMPETITION, HOWEVER, THESE AND OTHER BENEFITS ARE READILY SACRIFICED IN EXCHANGE FOR REGULAR EMPLOYMENT.

THERE ARE GOVERNMENT STANDARDS FOR INDUSTRIAL HEALTH AND SAFETY, BUT THEY ARE RARELY ENFORCED EITHER BY THE EMPLOYERS OR BY THE GOVERNMENT, WHICH HAS NO INSPECTORS. ACCIDENTS ARE COMMON, AND THERE IS USUALLY NO EMPHASIS ON PREVENTION. WHEN ACCIDENTS OCCUR, HOWEVER, EMPLOYERS NORMALLY PROVIDE AT LEAST MINIMAL COMPENSATION VOLUNTARILY.

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ADMIN
END OF MESSAGE