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R 032144Z OCT 89  
FM AMEMBASSY LIMA  
TO SECSTATE WASHDC PRIORITY 2053  
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LIMITED OFFICIAL USE SECTION 01 OF 16 LIMA 14862

DOL PASS (LAB/OFR-T. LINSENMAYER

E.O. 12356: N/A  
TAGS: PRUM, PE  
SUBJECT: DRAFT PERU COUNTRY REPORT ON HUMAN RIGHTS  
PRACTICES FOR 1989

REF: STATE 224546, STATE 261720, STATE 295217,  
STATE 303679

1. LOU/HOFORM - ENTIRE TEXT.
2. BEGIN EHEASSY DRAFT TEXT OF PERU COUNTRY REPORT ON HUMAN RIGHTS PRACTICES FOR 1989:

PERU

PERU HAS A FREELY ELECTED DEMOCRATIC GOVERNMENT, WITH AN EXECUTIVE BRANCH HEADED BY A PRESIDENT, A BICAMERAL LEGISLATURE, A SEPARATE JUDICIARY, AND AN AUTONOMOUS ATTORNEY GENERAL'S OFFICE (PUBLIC MINISTRY). PERU'S HISTORY HAS BEEN PUNCTUATED BY PERIODS OF MILITARY RULE, MOST RECENTLY BETWEEN 1968 AND 1980. PRESIDENT ALAN GARCIA AND HIS CENTER-LEFT AMERICAN POPULAR REVOLUTIONARY ALLIANCE (APRA) WON THE LAST GENERAL ELECTIONS IN 1985 BY A LARGE MARGIN; REPRESENTATION IN CONGRESS RANGES FROM CONSERVATIVE TO MARXIST. NATIONWIDE MUNICIPAL (AND SOME REGIONAL) ELECTIONS WERE LAST HELD NOVEMBER 12, 1989. PRESIDENTIAL, PARLIAMENTARY AND REGIONAL ELECTIONS ARE SCHEDULED FOR APRIL 8, 1990.

3. PUBLIC SECURITY RESPONSIBILITIES ARE SHARED BY BOTH THE POLICE AND THE MILITARY. THE INTERIOR MINISTRY AND ITS POLICE SERVICES HAVE THE PRIMARY COUNTERTERRORIST ROLE IN THE CITY OF LIMA, THE CONSTITUTIONAL PROVINCE OF CALLAO AND THOSE DEPARTMENTS NOT UNDER A STATE OF EMERGENCY. THE MILITARY LEADS THE EFFORT TO COMBAT SUBVERSION OUTSIDE LIMA AND CALLAO IN THE OTHER 47 PROVINCES (OUT OF 186) NOW UNDER A STATE OF EMERGENCY. THESE STATES OF EMERGENCY PLACE ALL EXECUTIVE BRANCH AUTHORITY IN THE LOCAL MILITARY COMMAND, SUSPEND RESTRICTIONS ON ARBITRARY DETENTION AND THE REQUIREMENT FOR SEARCH WARRANTS, AND RESTRICT RIGHTS OF MOVEMENT AND ASSEMBLY. MORE THAN 50 PERCENT OF PERU'S POPULATION OF 22 MILLION LIVED UNDER A STATE OF EMERGENCY IN 1989. A HISTORY OF MILITARY COUPS HAS WEAKENED CIVILIAN CONTROL OVER THE MILITARY. THERE IS LITTLE OVERSIGHT OF MILITARY ACTIVITIES IN THE EMERGENCY ZONES BY CIVILIAN JUDGES OR

PROSECUTORS, AND THE CONSTITUTIONAL RIGHTS OF PERSONS DETAINED BY THE MILITARY ARE ROUTINELY IGNORED.

4. PERU HAS A MIXED ECONOMY, AND PRIVATE PROPERTY IS GENERALLY RESPECTED. THE GOVERNMENT'S ECONOMIC POLICIES OF ECONOMIC REACTIVATION THROUGH HIGHER WAGES, PRICE CONTROLS, AND LIMITED PAYMENT OF EXTERNAL DEBT SERVICE BROUGHT TEMPORARY GROWTH TO THE ECONOMY IN 1986 AND 1987. THE SITUATION BEGAN TO DETERIORATE IN EARLY 1988 AS EXPORT EARNINGS FELL. UNEMPLOYMENT ROSE, CENTRAL BANK RESERVES PLUMMETED, AND THE FISCAL DEFICIT FUELED AN INFLATIONARY SPIRAL. AUSTERITY MEASURES -- INCLUDING DEPRECIATION OF THE INTI, PRICE INCREASES FOR GOVERNMENT-CONTROLLED AND SUBSIDIZED GOODS AND LOWER GOVERNMENT SPENDING ON SOCIAL SERVICES -- WERE INSUFFICIENT TO CORRECT THE STRUCTURAL PROBLEMS OF THE ECONOMY. THESE PROBLEMS LED IN 1988 AND 1989 TO A DEEP RECESSION AND HIGH INFLATION, WHICH REACHED 5000 PERCENT IN 1989. PERU'S GDP FELL FROM US\$OLLAR 23.6 BILLION IN 1987 TO AN ESTIMATED US\$OLLAR 13 BILLION IN 1989. PER CAPITA INCOME DROPPED FROM US\$OLLAR 1,136 IN 1987 TO AN ESTIMATED US\$OLLAR 540 IN 1989.

5. THE CHIEF FACTOR UNDERLYING HUMAN RIGHTS VIOLATIONS REMAINS THE TERRORIST ACTIVITIES OF THE SENDERO LUMINOSO (SHINING PATH) MARXIST GUERRILLAS. SENDERO, A PROPONENT OF TERROR TO UNDERMINE DEMOCRACY AND THE ECONOMY, BEARS HEAVY RESPONSIBILITY FOR THE RISE IN VIOLENCE IN PERU. IT REGULARLY ASSASSINATES DEVELOPMENT WORKERS, TEACHERS, ELECTED OFFICIALS, POLICE, SOLDIERS AND ORDINARY CITIZENS, PARTICULARLY INDIAN RESIDENTS OF THE ANDEAN HIGHLANDS. AS MEASURED BY THE NUMBER OF REPORTED DEATHS OF GOVERNMENT WORKERS (330 CIVILIAN, 130 POLICE, AND 70

UNITED STATES DEPARTMENT OF STATE  
REVIEW AUTHORITY: SAM A. MOSKOWITZ  
DATE/CASE ID: 9 JUL 1999 199300683

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DOL PASS ILAB/OFRT. LINSERMAYER

E.O. 12356: N/A  
TAGS: PHUM, PE  
SUBJECT: DRAFT PERU COUNTRY REPORT ON HUMAN RIGHTS

MILITARY), 1989 WAS THE MOST VIOLENT YEAR SINCE SENDERO ANNOUNCED ITS "POPULAR WAR" IN 1980. SENDERO ALSO INCREASED ITS CONTROL OVER PERU'S MAJOR COCA-GROWING REGION, THE UPPER HUALLAGA VALLEY, WHERE IT BOTH REPRESENTED PEASANT COCA GROWERS IN THEIR DEALINGS WITH NARCOTICS TRAFFICKERS AND COOPERATED WITH TRAFFICKERS TO THwart LAW ENFORCEMENT EFFORTS. IN ADDITION, SEVERAL OTHER SMALLER TERRORIST GROUPS WERE ACTIVE. INDEPENDENT HUMAN RIGHTS GROUPS ASSERT THAT THE TUPAC AMARU REVOLUTIONARY MOVEMENT (MRTA) COMMITTED 21 POLITICAL MURDERS IN 1989 AND THAT THE RODRIGO FRANCO COMMAND MURDERED NINE. IT IS BELIEVED THAT AT LEAST 2036 PERSONS WERE KILLED IN TERRORIST-RELATED VIOLENCE IN 1989.

6. DOCUMENTED CASES OF HUMAN RIGHTS ABUSES BY GOVERNMENT SECURITY FORCES INCREASED IN 1989 OVER THE LEVELS OF THE PREVIOUS YEAR. ALTHOUGH PERMISSION WAS GRANTED IN 1989 (AFTER HAVING BEEN WITHDRAWN IN 1988) FOR THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) TO VISIT THE EMERGENCY ZONES AND KEY PRISONS AND DETENTION CENTERS, INDEPENDENT INVESTIGATIONS ARE INCREASINGLY MORE DIFFICULT TO CARRY OUT. THE PUBLIC MINISTRY REPORTS A BACKLOG OF OVER 3000 PENDING CASES OF DISAPPEARANCES, OVER 500 OF THEM FILED IN THIS YEAR ALONE. ALONG WITH THE INCREASED NUMBER OF ALLEGATIONS OF DISAPPEARANCES, SUMMARY EXECUTIONS AND DETENTIONS BY THE MILITARY, THERE ARE CREDIBLE REPORTS OF FREQUENT USE OF TORTURE BY POLICE AND THE MILITARY. TRIALS OF MILITARY PERSONNEL ACCUSED OF HUMAN RIGHTS VIOLATIONS MOVE SLOWLY IF AT ALL. A PUBLIC MINISTRY INVESTIGATOR CONCLUDED THAT THERE WAS CLEAR MILITARY RESPONSIBILITY FOR THE MAY 1988 MASSACRE OF AT LEAST 28 VILLAGERS IN CAYARA, AYACUCHO. THE RULING PARTY MEMBER LEADING THE CONGRESSIONAL INVESTIGATION INTO THE KILLINGS, HOWEVER, CONCLUDED THERE HAD BEEN "NO EXCESSES COMMITTED ON THE PART OF THE MILITARY," EVEN THOUGH THE COMMISSION HAS YET TO PRODUCE ITS OFFICIAL REPORT. AT YEAR'S END, THE INVESTIGATION REMAINED STALLED. MILITARY PROCEEDINGS AGAINST 77 MILITARY AND POLICE OFFICERS AND SOLDIERS IMPLICATED IN THE JUNE 1986 MASSACRE OF 124 PRISONERS AT LIMA'S LURIGANCNO PRISON MOVED FORWARD TO PUBLIC TRIAL IN LATE AUGUST 1989. A SPECIAL CONGRESSIONAL COMMISSION

ON PARAMILITARY ACTIVITIES WAS ESTABLISHED AFTER THE APRIL AND MAY ASSASSINATIONS OF 140 MEMBERS OF THE CHAMBER OF DEPUTIES. COMMISSION MEMBERS CONCLUDED THAT EXTREMIST MEMBERS OF APRA WORKING WITH ELEMENTS OF THE MINISTRY OF INTERIOR ARE USING THE EXTRALEGAL VIGILANTE TERRORIST GROUP CALLING ITSELF THE RODRIGO FRANCO COMMAND TO CONDUCT OPERATIONS AS A NET SUSPECTED ANTIGOVERNMENT TERRORISTS AND SYMPATHIZERS.

7.  
RESPECT FOR HUMAN RIGHTS

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

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

THE LEVEL OF POLITICAL AND OTHER EXTRAJUDICIAL KILLINGS ROSE IN 1989. SENDERO LURIGANCNO CONTINUED TO ASSASSINATE TEACHERS, ENGINEERS, DEVELOPMENT AND HUMAN RIGHTS WORKERS, INDIAN PEASANTS, AS WELL AS EVER GREATER NUMBERS OF CANDIDATES FOR PUBLIC OFFICE, PLUS GOVERNMENT AND RULING PARTY OFFICIALS. OFFICIAL GOVERNMENT SOURCES REPORTED MORE THAN 330 CIVILIAN DEATHS FROM TERRORIST VIOLENCE IN 1989. THE INDEPENDENT NATIONAL COORDINATOR FOR HUMAN RIGHTS CALCULATED A TOTAL OF 623 CIVILIAN POLITICAL ASSASSINATIONS, 720 OF THEM BY SENDERO. SENDERO'S KILLINGS THUS REMAINED PRIMARILY AIMED AT THE GENERAL PUBLIC, RATHER THAN GOVERNMENT SECURITY FORCES, WHICH BY COMPARISON SUFFERED ONLY 157 DEATHS BY SENDERO. DUE TO THE ISOLATION OF MANY RURAL AREAS WHERE SENDERO IS MOST ACTIVE, THE NUMBER OF VICTIMS ALMOST SURELY IS UNDERREPORTED. SENDERO CONTINUED TO USE VIOLENCE IN THE COUNTRYSIDE, PARTICULARLY

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ASSASSINATIONS, TO IMPOSE ITS ADMINISTRATIVE CONTROL OVER CERTAIN AREAS, PUNISH SO-CALLED TRAITORS, AND ELIMINATE OPPOSITION. IN THE CITIES, SENDERO USED ATTACKS MORE FOR PROPAGANDA AND INTIMIDATION PURPOSES, SUCH AS THE JUNE 3 DYNAMITE ATTACK AGAINST A BUS CARRYING THE PRESIDENTIAL CEREMONIAL ESCORT BATTALION IN LIMA. IN A MAJOR EFFORT TO DISRUPT THE NATION'S NOVEMBER 1989 MUNICIPAL AND APRIL 1990 PRESIDENTIAL ELECTIONS, THE PATTERN OF SENDERO KILLINGS OF GOVERNMENT AND APRA PARTY OFFICIALS, WHICH HAD ALREADY GROWN SIGNIFICANTLY IN 1986-1988, WAS DRAMATICALLY EXPANDED IN 1989 TO INCLUDE OPPOSITION OFFICERS AND CANDIDATES FOR PUBLIC OFFICE, REGARDLESS OF PARTY AFFILIATION.

8. SENDERO ATTACKED AND KILLED SEVERAL FOREIGNERS IN 1989. A EUROPEAN HEALTH PROJECT WAS ATTACKED IN APRIL. A BRITISH TOURIST WAS KILLED IN MAY. TWO GERMAN TOURISTS WERE ALMOST CERTAINLY KILLED BY SENDERO, ALSO IN MAY. ARGENTINE CITIZEN, LONGTIME PERUVIAN RESIDENT AND JOURNALIST BARBARA D'ACHILLE WAS STONED TO DEATH BY SENDERO IN JUNE. A BUSLOAD OF SOVIET FISHERMEN WAS DYNAMITED BY SENDERO IN CALLAO IN JULY. TWO FRENCH DEVELOPMENT WORKERS WERE KILLED BY SENDERO IN DECEMBER 1988. THE WIFE OF THE MAYOR OF JERSEY CITY, NEW JERSEY WAS AMONG THOSE KILLED IN THE DECEMBER 1, 1988 DERAILMENT OF THE MAGNU PICCHU TOURIST TRAIN, POSSIBLY BY SENDERO.

9. A SECOND TERRORIST GROUP, THE TUPAC AMARU REVOLUTIONARY MOVEMENT (MRTA), HAS EXPANDED BEYOND ITS ORIGINAL LIMA AND ENVIRONS BASE OF OPERATIONS TO FIELD ITS OWN PARAMILITARY TROOPS IN SOME RURAL ZONES, MOST NOTABLY NORTHERN SAN MARTIN DEPARTMENT. THOUGH THE MRTA CHIEFLY SEEKS THE DESTRUCTION OF PROPERTY THROUGH THE SELECTIVE BOMBING OF BANKS, FACTORIES, FOREIGN BUSINESSES, AND DIPLOMATIC INSTALLATIONS, THESE ATTACKS KILLED 21 PEOPLE IN 1989 (VERSUS 6 IN 1988). AMONG THOSE KILLED WAS A POLICE SERGEANT DURING A SEPTEMBER ATTACK ON THE LIMA RESIDENCE OF ECONOMY AND FINANCE MINISTER CESAR VASQUEZ BRAZAN.

10. A THIRD TERRORIST GROUP, THE RODRIGO FRANCO COMMAND (GRF), ALSO INCREASED ITS ACTIVITIES IN

1989. SUSPECTED OF BEING CONTROLLED BY ELEMENTS OF THE APRA PARTY AND THE MINISTRY OF INTERIOR, THE GRF CARRIED OUT A CAMPAIGN OF INTIMIDATION, BOMBINGS AND ASSASSINATIONS. AMONG THOSE TARGETED BY GRF IN 1989 WERE JOURNALISTS, HUMAN RIGHTS WORKERS, UNIONISTS, LAWYERS, LEFTIST POLITICIANS AND OTHERS THE GRF ACCUSED OF WORKING TO ADVANCE THE CAUSE OF SENDERO OR MRTA. ACCORDING TO INDEPENDENT HUMAN RIGHTS GROUPS, GRF WAS RESPONSIBLE FOR KILLING AT LEAST NINE PERSONS IN 1989.

11. THERE ARE NO OFFICIAL STATISTICS ON THE NUMBER OF SUMMARY EXECUTIONS IN 1989. SINCE THE NUMBER OF CONFIRMED DISAPPEARANCES SHARPLY ROSE FOR THE SECOND STRAIGHT YEAR, IT APPEARS PROBABLE THAT THE NUMBER OF SUMMARY EXECUTIONS, REPRESENTED BY THOSE WHO DISAPPEARED AND WHO DID NOT REAPPEAR WITHIN A REASONABLE PERIOD OF TIME, ALSO SIGNIFICANTLY INCREASED IN 1989. IN AN AUGUST 1989 REPORT, AMNESTY INTERNATIONAL CHARGED THAT NOT ONLY DID THE NUMBER OF EXTRAJUDICIAL KILLINGS AND DISAPPEARANCES IN EMERGENCY ZONES GROW "IN A SPECTACULAR MANNER" DURING 1988 AND THE FIRST HALF OF 1989, BUT THAT FOR THE FIRST TIME THESE PRACTICES WERE NO LONGER CONFINED TO THE EMERGENCY ZONES NOR WERE THE VICTIMS ONLY FROM INDIGENOUS PEASANT COMMUNITIES IN THE ANDEAN HIGHLANDS.

12. SEVERAL NOTABLE CASES OF PROBABLE MILITARY KILLINGS OCCURRED IN 1989. ON MAY 17, SOME 100 TROOPS OF THE NO. 3 OLLANTAYTAMBO INFANTRY BATTALION ENTERED THE TOWN OF CALABAZA, SATIPO, JUNIN DEPARTMENT. ACCORDING TO SURVIVORS' ACCOUNTS FILED WITH THE ATTORNEY GENERAL'S OFFICE, THE TOWNSPEOPLE WERE ASSEMBLED AND TWO HOODED INDIVIDUALS (SAID TO BE FORMER SENDERO COOPERATING WITH THE ARMY) SELECTED OUT APPROXIMATELY 20 INDIVIDUALS. THE PRISONERS WERE

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THREATENED HER FATHER. INTERIOR MINISTER MANT LLA HAS RESOLUTELY DENIED ANY INVOLVEMENT IN THE CRF OR SIMILAR GROUPS. ALTHOUGH SEVERAL SUSPECTS WERE DETAINED AND LATER RELEASED, BY YEAR'S END, NO CRIMINAL CHARGES WERE PENDING IN CONNECTION WITH ANY ACTIONS UNDERTAKEN BY THE CRF.

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TAKEN TO A RAVINE, TORTURED AND KILLED, ALTHOUGH A FEW ESCAPED. THE NEXT DAY THE BODIES OF 11 YOUNG PEOPLE, INCLUDING THOSE OF THREE STUDENTS AGED 14, 16 AND 17 YEARS, WERE FOUND ON THE SHORES OF THE CALABAZA RIVER. THE LAST SURVIVING WITNESS OF THE MAY 14, 1986 ARMY MASSACRE OF 26 VILLAGERS IN CAYARA, AYACUCHO DEPARTMENT WAS KILLED IN CIRCUMSTANCES IMPLICATING THE ARMY. MARTHA CRISOSTOMO GARCIA WAS SHOT TO DEATH AFTER EIGHT HOODED INDIVIDUALS IN MILITARY DRESS BURST INTO HER HOUSE IN HUAMANGA AT THREE A.M. ON SEPTEMBER 2, 1989. THE NINTH WITNESS TO DISAPPEAR OR TO BE KILLED SINCE THE CAYARA MASSACRE, CRISOSTOMO HAD IDENTIFIED THE BODY OF ONE OF THOSE KILLED, THUS IMPLICATING GENERAL JOSE VALDIVIA, THEN POLITICAL-MILITARY CHIEF OF THE AYACUCHO EMERGENCY ZONE.

13. IN NEITHER THE CALABAZA MASSACRE NOR THE MURDER OF CRISOSTOMO, NOR IN ANY OTHER 1989 INCIDENT OF ALLEGED MILITARY OR POLICE HUMAN RIGHTS VIOLATIONS WERE THE RESULTS OF OFFICIAL EXECUTIVE BRANCH INVESTIGATIONS EVER MADE PUBLIC, NOR WERE CHARGES BROUGHT AGAINST SECURITY OFFICIALS.

14. THE TRIAL OF 77 ARMY AND POLICE OFFICIALS ACCUSED OF THE JUNE 1986 KILLING OF 124 INMATES AT THE LURIGANCHO PRISON PROCEEDED TO PUBLIC MILITARY TRIAL IN AUGUST. THE MILITARY JUSTICE CODE CONTAINS NO SPECIFIC LANGUAGE FOR DEALING WITH CASES OF KILLING, KIDNAPPING OR TORTURE -- ONLY "NEGLIGENCE" AND "ABUSE OF AUTHORITY."

15. THE ASSASSINATIONS OF CHAMBER OF DEPUTIES MEMBERS ERIBERTO ARROYO HIO (APRIL 27) AND PABLO LI ORNERO (MAY 6) PROMPTED THE CHAMBER TO ESTABLISH A COMMISSION TO INVESTIGATE PARAMILITARY ACTIVITIES. THE COMMISSION'S PRELIMINARY REPORT WAS SUBMITTED IN MID-AUGUST, "HYPOTHESIZING" THAT APRA PARTY YOUTHS ARE THE ACTUAL PERPETRATORS OF THE BOMBINGS, MURDERS AND THREATS BEING COMMITTED IN THE NAME OF THE RODRIGO FRANCO COMMAND (CRF), WITH MINISTER OF INTERIOR AGUSTIN MANTILLA AS THE DRIVING FORCE BEHIND THE CRF. COMMISSION MEMBERS RECEIVED A NUMBER OF DEATH THREATS; THE DAUGHTER OF COMMISSION MEMBER MANUEL PIQUERAS WAS BRIEFLY DETAINED BY ARMED MEN WHO

16. MINERS FEDERATION SECRETARY GENERAL SAUL CANTORAL WAS KIDNAPPED AND "ORDERED" BY UNKNOWN ASSAILANTS ON FEBRUARY 13. IN LATE AUGUST AND EARLY SEPTEMBER, SEVERAL DOZEN BODIES WERE SEEN FLOATING DOWN THE HUALLAGA RIVER NEAR SANTA LUCIA IN THE NORTH CENTRAL DEPARTMENT OF SAN MARTIN. MANY OF THE BODIES HAD BEEN DECAPITATED AND WERE ALSO MISSING HANDS AND FEET. ALTHOUGH NO ORGANIZATION CLAIMED RESPONSIBILITY FOR THE DEATHS, PUBLIC SPECULATION CENTERED ON THE POSSIBILITY THAT THE MILITARY KILLED DRUG TRAFFICKERS, SENDERO OR CIVILIANS. OTHERS POINTED TO THE POSSIBILITY OF A WAR BETWEEN RIVAL DRUG GANGS OR TO SENDERO HAVING KILLED TRAFFICKERS OR CIVILIANS. THE INABILITY OF POLICE OR PRIVATE HUMAN RIGHTS GROUPS TO ASCERTAIN RESPONSIBILITY FOR THESE DEATHS, MUCH LESS ARREST THOSE RESPONSIBLE, IS INDICATIVE OF THE LEVEL OF FRUSTRATION ROUTINELY ENCOUNTERED IN LAW ENFORCEMENT OR HUMAN RIGHTS WORK IN PERU TODAY.

17.  
 B. DISAPPEARANCE

SINCE 1983 THERE HAVE BEEN BETWEEN 2800 AND 3500 CASES OF DISAPPEARANCES INVOLVING THE SECURITY FORCES. THE MAJORITY OCCURRED PRIOR TO 1985. LOCAL HUMAN RIGHTS GROUPS REPORT HAVING RECEIVED DENUNCIATIONS OF APPROXIMATELY 223 NEW DISAPPEARANCES

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GOVERNMENT ARE POSITIVELY TORTURED AT MILITARY DETENTION CENTERS. LAWYERS AND OTHER PERSONS FAMILIAR WITH THE POLICE AND JUDICIAL SYSTEM CONCUR. IN 1987 THE PUBLIC MINISTRY NOTED THAT THE MAJORITY OF DETAINEES HELD BY MILITARY AUTHORITIES SHOWED SIGNS OF MISTREATMENT OR TORTURE. IN 1988 THERE WERE RELIABLE ACCOUNTS FROM RELEASED DETAINEES OF TORTURE OR MISTREATMENT BOTH BY POLICE AND MILITARY.

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21. THE 1987 TERRORISM LAW REQUIRES THAT PERSONS DETAINED FOR TERRORISM BE INTERROGATED ONLY IN THE PRESENCE OF A DEFENSE ATTORNEY AND A PUBLIC MINISTRY PROSECUTOR. IN THESE CASES, A COURT INDICTMENT MUST BE SOUGHT WITHIN 15 DAYS OF ARREST OR THE PRISONER MUST BE RELEASED. THERE ARE FEW RELIABLE REPORTS OF VIOLATIONS OF THESE STANDARDS IN AREAS NOT COVERED BY THE MILITARY UNDER A STATE OF EXCEPTION THE CONSTITUTIONAL MECHANISM WHEREBY CERTAIN RIGHTS NORMALLY GUARANTEED A CITIZEN MAY BE DENIED, AND THUS ADMINISTERED BY THE INTERIOR MINISTRY'S TECHNICAL POLICE. THERE IS SOME DISPUTE AS TO WHETHER UNDER PERUVIAN LAW THE MILITARY IS REQUIRED TO ADHERE TO THESE REQUIREMENTS UNDER A STATE OF EXCEPTION, ALTHOUGH PERU IS OBLIGED TO MEET SUCH STANDARDS UNDER ITS INTERNATIONAL TREATY OBLIGATIONS. IN ANY EVENT, THE MILITARY DO NOT ADHERE TO THESE STANDARDS. THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) WAS IN 1985 GRANTED ACCESS TO DETAINEES IN THE MILITARY-CONTROLLED EMERGENCY ZONES AND TO POLICE DETENTION CENTERS WHERE INTERROGATIONS OCCUR PRIOR TO INDICTMENT.

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22. MANY VICTIMS OF SENDERO ALSO SHOW SIGNS OF HAVING BEEN TORTURED BEFORE DEATH. TORTURE OF THOSE VICTIMS OFTEN FOLLOWS A BRIEF "POPULAR TRIAL," NORMALLY HELD IN THE PRESENCE OF RURAL VILLAGERS. SENDERO USES PARTICULARLY BRUTAL METHODS OF

IN 1989, FAR ABOVE THE 170 CASES REPORTED BY THE UNITED NATIONS WORKING GROUP ON DISAPPEARANCES IN 1988. IN THE MONTHS JUNE THROUGH SEPTEMBER 1989 MORE THAN 100 DENUNCIATIONS OF DISAPPEARANCES WERE FILED JUST IN THE TINGO MARIA AREA OF HUANCOCO DEPARTMENT. MOST CASES NATIONWIDE INVOLVED THE DETENTION OF PERSONS SUSPECTED OF TERRORIST LINKS IN THE EMERGENCY ZONES, BUT THERE HAVE BEEN NOTABLE CASES IN LIMA AS WELL. SEVERAL PROMINENT CASES FROM PREVIOUS YEARS, ALL IN LIMA, REMAIN UNRESOLVED. THOUGH A LARGER PERCENTAGE OF THOSE DETAINED BY SECURITY FORCES WITHIN THE SECURITY ZONES HAVE REAPPEARED, HUMAN RIGHTS GROUPS BELIEVE THAT MOST OF THE REMAINDER WERE OR WILL BE SUMMARILY EXECUTED. THE BODIES OF DISAPPEARANCE VICTIMS ARE RARELY FOUND. BASED ON THE TESTIMONY OF SURVIVORS, IT APPEARS THAT MOST VICTIMS ARE TAKEN TO MILITARY BASES FOR INTERROGATION. SOME ARE TURNED OVER TO THE POLICE AFTER LENGTHY DETENTIONS AND ARE LATER FREED FOR LACK OF INCRIMINATING EVIDENCE. HUMAN RIGHTS GROUPS ARGUE PERSUASIVELY THAT THE REST ARE SUMMARILY EXECUTED BY THE ARMED FORCES.

18. A SEPTEMBER 1988 REPORT BY THE PERUVIAN MULTIPARTY SENATE COMMISSION ON VIOLENCE AND PACIFICATION STATED: "THERE ARE VIOLATIONS OF HUMAN RIGHTS, CONSISTING OF CRIMES AGAINST INNOCENT POPULATIONS: EXTRAJUDICIAL EXECUTIONS, TORTURE, ARBITRARY DETENTIONS, AND DISAPPEARANCES; AND APPARENTLY INVOLVED IN THESE CONDEMNABLE ACTS ARE MEMBERS OF THE ARMED FORCES AND THE POLICE."

19. AN UNKNOWN NUMBER OF "DISAPPEARED" PERSONS ARE UNACCOUNTED FOR BECAUSE THEY JOINED THE RAMAS OF MRTA OR SENDERO, EITHER VOLUNTARILY OR FORCIBLY.

20.  
 C. TORTURE AND OTHER CRUEL, INHUMAN,  
 OR DEGRADING TREATMENT OR PUNISHMENT

ALTHOUGH THE CONSTITUTION PROHIBITS TORTURE AND INHUMAN OR HUMILIATING TREATMENT, CHARGES OF BRUTALITY TOWARD DETAINEES ARE COMMON. HUMAN RIGHTS GROUPS CLAIM THAT SUSPECTED SUBVERSIVES HELD BY THE

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R 032144Z OCT 89  
 FM AMEMBASSY LIMA  
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 A//DEPT OF LABOR WASHDC

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E.O. 12356: M/A  
 TAGS: PHUM, PE  
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EXECUTION, INCLUDING SLITTING THROATS, STRANGULATION, STONING, AND BURNING. IN ADDITION THERE ARE CREDIBLE REPORTS THAT SENDERO FREQUENTLY BEATS OR TORTURES PEASANTS WHO WITHHOLD THEIR SUPPORT. IN ONE SUCH INCIDENT, SENDERO KILLED AT LEAST 45 PEASANTS IN THREE SETTLEMENTS IN MUNCAVELICA PROVINCE ON JUNE 9. THE TOWNSPEOPLE WERE ROUNDED UP, THE COMMUNITY LEADERS AND THOSE WHO HAD REFUSED SENDERO'S EARLIER CALL FOR A WORK STOPPAGE WERE SELECTED OUT FOR "TRIAL," AND THEN SHOT, STABBED OR HAD THEIR SKULLS SMASHED AS FAMILY AND NEIGHBORS LOOKED ON.

23. PRISON CONDITIONS ARE EXTREMELY POOR, AND PRISONERS ARE LIKELY TO EXPERIENCE UNSANITARY FACILITIES, POOR NUTRITION AND HEALTH CARE, AND ILL-TREATMENT BY PRISON STAFF. BECAUSE OF THE LARGE NUMBERS OF CONVICTED AND ACCUSED TERRORISTS, MANY CELLBLOCKS OR PRISONS HAVE REPORTEDLY FALLEN UNDER SENDERO OR MRTA CONTROL. PRISON VISITORS REPORT OPEN DISPLAYS OF SENDERO PROPAGANDA, AND THE FREE EXERCISE OF SENDERO POLITICAL INDOCTRINATION PROGRAMS.

24.  
 D. ARBITRARY ARREST, DETENTION, OR EXILE

THE CONSTITUTION, THE PENAL CODE, AND ANTITERRORIST LEGISLATION CLEARLY DELINEATE THE ARREST AND DETENTION PROCESS. HOWEVER, THESE PROTECTIONS ARE SUSPENDED IN THOSE AREAS UNDER A STATE OF EMERGENCY. IN AREAS NOT SUBJECT TO A STATE OF EMERGENCY, A WARRANT APPROVED BY A PUBLIC MINISTRY PROSECUTOR IS REQUIRED FOR ARREST. PERSONS ARRESTED MUST BE ARRAIGNED WITHIN 24 HOURS, EXCEPT IN CASES OF DRUG TRAFFICKING, TERRORISM, OR ESPIONAGE, FOR WHICH THE LIMIT IS 15 DAYS. DETAINEES HAVE THE RIGHT TO CHOOSE THEIR OWN COUNSEL, OR THE GOVERNMENT MUST PROVIDE COUNSEL AT NO CHARGE. ARRESTED PERSONS ARE ENTITLED TO HAVE AN ATTORNEY PRESENT WHEN THEY MAKE STATEMENTS TO THE POLICE. UNDER THE 1997 TERRORISM LAW, POLICE MUST ALSO NOTIFY THE DETAINEES' FAMILY AND HUMAN RIGHTS GROUPS OF AN ARREST, ALTHOUGH IN PRACTICE THIS IS NOT CONSISTENTLY DONE. THERE IS NO BAIL OR PROVISIONAL LIBERTY FOR PERSONS ACCUSED OF TERRORISM.

25. ARREST PROCEDURES ARE DIFFERENT IN THE RURAL EMERGENCY ZONES. THE ARMED FORCES DO NOT NEED AN ARREST WARRANT, AND DETAINEES ARE OFTEN DENIED ACCESS TO AN ATTORNEY DURING INTERROGATION AND TO FAMILY MEMBERS DURING THEIR IMPRISONMENT. ALL DETAINEES, INCLUDING THOSE IN THE EMERGENCY ZONES, HAVE THE RIGHT TO SEEK JUDICIAL DETERMINATION OF THE LEGALITY OF THEIR DETENTION, BUT THIS RIGHT IS ROUTINELY DISREGARDED BY MILITARY COMMANDERS IN THE EMERGENCY ZONES. OF THE SEVERAL THOUSAND PRISONERS HELD BY THE MILITARY INSIDE THE EMERGENCY ZONES, HUMAN RIGHTS GROUPS KNOW OF FEW WHO WERE TURNED OVER TO CIVILIAN AUTHORITIES FOR PROSECUTION.

26. SINCE 1985, HUMAN RIGHTS GROUPS NOTE THAT AN INCREASING NUMBER OF PERSONS DETAINED BY THE MILITARY IN THE EMERGENCY ZONES REAPPEARED AFTER A PERIOD OF INCOMMUNICADO DETENTION. THIS MAY REFLECT THE RESULT OF GOVERNMENT EFFORTS TO REDUCE LONG-TERM DETENTIONS AND SUMMARY EXECUTIONS. ARBITRARY ARRESTS AND DETENTIONS IN THE EMERGENCY ZONES IN 1989 ARE ESTIMATED IN THE HUNDREDS.

27. IN 1989 THE MILITARY CONTINUED THE PRACTICE OF DETAINING PERSONS ENTERING THE EMERGENCY ZONES TO INVESTIGATE HUMAN RIGHTS CASES OR TO SIMPLY INSTRUCT CITIZENS ON THEIR CONSTITUTIONAL RIGHTS. LABOR UNION ORGANIZERS ALSO OFTEN FOUND THEMSELVES DETAINED UNDER THE EXPANSIVE COUNTER-TERRORISM LAW. IN THE THREE DAYS BEFORE THE MID-AUGUST START OF THE MINERS' STRIKE AT LEAST 34 ORGANIZERS WERE DETAINED AND CHARGED WITH TERRORISM. ANOTHER TEN WERE ARRESTED THE FOLLOWING WEEK. BY SEPTEMBER 2, ALL HAD BEEN RELEASED AND ALL CHARGES HAD BEEN DROPPED AGAINST ALL 44. THE TERRORISM STATUTE WAS ROUTINELY APPLIED IN THE EMERGENCY ZONES AGAINST THOSE INDIVIDUALS THE GOVERNMENT HAD SUSPECTED OF ANTIGOVERNMENT ACTIVITY.

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08 INCARCERATED ON TERRORISM CHARGES IN LERIJANCHO'S MIGUEL CASTRO CASTRO PRISON HAVE BEEN CONVICTED.

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28. THE CONSTITUTION PROHIBITS, AND THERE HAVE BEEN NO KNOWN CASES OF, INVOLUNTARY EXILE IN THE PAST NINE YEARS. WITH REGARD TO FORCED OR COMPULSORY LABOR, SEE SECTION 6.C.

29.  
 E. DENIAL OF FAIR PUBLIC TRIAL

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 THE JUDICIARY IS A SEPARATE BRANCH OF GOVERNMENT. SUPREME COURT JUDGES ARE NOMINATED BY THE PRESIDENT AND RATIFIED BY THE SENATE. ALL JUDGES MAY SERVE UNTIL AGE 70. IN THE PERUVIAN LEGAL SYSTEM, WHICH IS BASED ON THE NAPOLEONIC CODE, ONCE CRIMINAL CHARGES ARE FILED, A JUDGE DETERMINES WHETHER PROBABLE CAUSE EXISTS. THE JUDICIAL PROCESS PRIOR TO TRIAL MAY LAST SEVERAL MONTHS, FOLLOWED BY A PUBLIC TRIAL. DEFENDANTS HAVE THE RIGHT TO BE PRESENT AT THE TRIAL. THERE IS NO JURY TRIAL; VERDICTS ARE RENDERED BY ONE OR A PANEL OF JUDGES. SENTENCES MAY BE APPEALED, AND JUDGES MAY SEND CASES BACK TO LOWER COURTS FOR ADDITIONAL INVESTIGATION. THERE ARE TOO FEW PUBLIC DEFENDERS FOR THE LARGE CASELOADS. MANY JUDGES ON THE SUPERIOR AND SUPREME COURTS ARE ACTIVE IN POLITICAL PARTIES, AND THERE ARE OCCASIONAL CLAIMS THAT DECISIONS HAVE BEEN POLITICALLY MOTIVATED.

30. COURTS FACE SEVERE BACKLOGS, A PRODUCT OF INEFFICIENCY, INFLUENCE PEDDLING, AND THE SHARP INCREASE IN TERRORISM CASES. THE MINISTRY OF JUSTICE REPORTED IN JULY 1988 THAT THERE WAS A BACKLOG OF NEARLY 45,000 CRIMINAL CASES. HUMAN RIGHTS GROUPS HAVE DOCUMENTED NUMEROUS CASES OF PERSONS WHO HAVE BEEN DETAINED WITHOUT BAIL, AWAITING TRIAL, FOR PERIODS UP TO FOUR YEARS. THERE ARE ALSO WIDESPREAD CHARGES OF CORRUPTION AND THE SUBORNING OF JUDGES, POLICE, AND WITNESSES AT ALL STAGES OF THE JUDICIAL PROCESS. NARCOTICS TRAFFICKERS REPORTEDLY HAVE BEEN ABLE TO BUY THEIR FREEDOM FROM JAILS.

31. OUTGOING MINISTER OF JUSTICE CESAR DELGADO BARRETO ACKNOWLEDGED IN SEPTEMBER THAT FULLY TWO-THIRDS OF ALL PRISON INMATES ARE ONLY ACCUSED OF CRIMES, WITH ONLY ONE-THIRD HAVING EVER BEEN JUDGED, FOUND GUILTY AND SENTENCED. ONLY 51 OF THE MORE THAN

32. THREATS AND INTIMIDATION OF JUDGES HANDLING TERRORISM CASES REPRESENT A SERIOUS PROBLEM, ACCOUNTING IN PART FOR THE LOW CONVICTION RATE OF ACCUSED TERRORISTS. FEWER THAN 20 PERCENT OF THOSE ARRESTED FOR SECURITY VIOLATIONS ARE CONVICTED, A NOTORIOUSLY LOW RATE THAT LEADS TO POLICE FRUSTRATION WITH THE JUDICIAL PROCESS AND TO PUBLIC TOLERANCE OF POLICE ABUSES. THE JULY 1988 ACQUITTAL OF SUSPECTED TERRORIST AND SENDERO LEADER OSMAN MOROTE ON TWO OF THE EIGHT INITIAL CHARGES AGAINST HIM IS BELIEVED TO HAVE BEEN PARTIALLY THE RESULT OF DEATH THREATS AGAINST THE JUDGES HEARING THE CASE (INCLUDING A BREAK-IN AT THE PROSECUTOR'S HOME). MOROTE'S ACQUITTAL WAS SUBSEQUENTLY REVERSED ON APPEAL, BUT THIS HAS DONE LITTLE TO RESTORE FAITH IN THE JUDICIAL SYSTEM. ADDITIONAL THREATS AGAINST JUDGES TRYING MOROTE OCCURRED IN 1989.

33. WELL-INFORMED LAWYERS WERE CRITICAL OF THE LACK OF COOPERATION BETWEEN THE INTERIOR MINISTRY'S TECHNICAL POLICE WHO INVESTIGATE AND ARREST, AND THE PUBLIC MINISTRY PROSECUTORS WHO CONDUCT THEIR OWN INVESTIGATIONS AS A PART OF THE TRIAL PROCESS.

34. CONGRESS CREATED SPECIAL TRIBUNALS TO HEAR TERRORISM CASES IN 1987, AND PROMISED GREATER SECURITY MEASURES TO PROTECT JUDGES AND WITNESSES. THERE WERE IMMEDIATE PROBLEMS WITH FINDING JUDGES WHO WERE WILLING TO SERVE ON THESE COURTS, IN PROVIDING THE GUARANTEES OF SAFETY REQUIRED IN THE ENABLING LEGISLATION, AND WITH THE LARGE BACKLOG OF CASES. OVERWHELMED BY THESE PROBLEMS, THE SPECIAL TRIBUNALS WERE ABOLISHED IN APRIL 1988.

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FM AMEMBASSY LIMA  
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TAGS: PHUM, PE  
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35. ALTHOUGH THE CONSTITUTION MANDATES THAT CIVILIANS BE TRIED IN CIVILIAN COURTS, PRESIDENT GARCIA PROPOSED IN JULY 1989 THAT CIVILIAN TERRORISTS BE TRIED BY MILITARY TRIBUNALS THROUGHOUT THE COUNTRY, IN AND OUT OF EMERGENCY ZONES. BY YEAR'S END, NO FURTHER ACTION HAD BEEN TAKEN. THE SUPREME COURT DECIDES WHETHER MILITARY OR POLICE OFFENDERS ARE TRIED IN CIVILIAN COURTS OR IN A SEPARATE MILITARY COURT SYSTEM. THE MILITARY GENERALLY ASSERTS ITS JURISDICTION IN THESE CASES, AND THE COURT GENERALLY RULES IN ITS FAVOR. THE LAST ATTEMPT TO HAVE A CIVILIAN COURT TRY A MILITARY OFFICER OCCURRED IN 1986, AND IT WAS THWARTED WHEN THE OFFICER FLED TO AVOID TRIAL. THE CIVILIAN COURTS ARE MAKING SLOW PROGRESS ON SEVERAL CASES INVOLVING ALLEGED POLICE VIOLATIONS OF HUMAN RIGHTS. ONGOING CASES INCLUDE THOSE AGAINST POLICE CHARGED IN THE 1981 KILLING IN DETENTION OF CUSCO UNIVERSITY STUDENT MARCO ANTONIO AYERBE, THE 1982 KILLING OF PRISONERS IN AN AYACUCHO HOSPITAL, THE 1982 DEATH OF FRANCISCO MUFFLO, AND THE 1986 TORTURE OF DETAINEES IN A CUSCO POLICE STATION. CONVICTIONS WERE HANDED DOWN AGAINST POLICE ACCUSED IN KILLINGS IN 1983 AND 1984.

36. MILITARY TRIALS MAY BE CLOSED TO THE PUBLIC AT THE DISCRETION OF THE RULING MAGISTRATE, AND LITTLE IS KNOWN ABOUT SPECIFIC CASES. ALTHOUGH THE MILITARY CLAIMS THAT HUMAN RIGHTS OFFENDERS ARE SEVERELY DISCIPLINED, NO MEMBER OF THE ARMED FORCES HAS EVER BEEN CONVICTED IN EITHER MILITARY OR CIVILIAN COURTS FOR HUMAN RIGHTS VIOLATIONS. CASES REPORTEDLY PENDING IN MILITARY COURTS INCLUDE CHARGES AGAINST: A LIEUTENANT FOR THE 1985 MURDER OF 69 PERSONS IN ACCOMARCA; AN OFFICER FOR THREE 1985 HUANUCO DEATHS; OFFICERS ACCUSED OF EXECUTIONS IN 1985 IN PARCO AND POMAHAMBO; AND MILITARY PERSONNEL INVOLVED IN THE KILLINGS IN 1986 AT LURIGANCHO PRISON. IN THE LURIGANCHO CASE, THE MILITARY PROSECUTOR ASKED FOR SENTENCES RANGING BETWEEN SIX AND 25 YEARS AGAINST THE 77 ACCUSED SECURITY FORCE MEMBERS (6 ARMY OFFICERS, 28 POLICE OFFICERS, AND 51 POLICE). THE PROSECUTOR REQUESTED A 25-YEAR SENTENCE FOR POLICE COLONEL ROLAND CABEZAS AND SIX YEARS FOR ARMY GENERAL JORGE RABANAL. THIS CASE IS STILL BEING TRIED.

37.  
F. ARBITRARY INTERFERENCE WITH PRIVACY,  
- FAMILY, HOME, OR CORRESPONDENCE

THE CONSTITUTION STIPULATES THAT THE POLICE NEED A JUDICIAL WARRANT TO ENTER A PRIVATE DWELLING, AND THIS IS GENERALLY RESPECTED IN PRACTICE. THE REQUIREMENT IS SUSPENDED IN THE EMERGENCY ZONES. HOWEVER, AND SECURITY FORCES IN THESE AREAS ROUTINELY CONDUCT SEARCHES OF PRIVATE HOMES WITHOUT WARRANTS.

38.  
G. USE OF EXCESSIVE FORCE AND VIOLATIONS OF  
- HUMANITARIAN LAW IN INTERNAL CONFLICTS

APPROXIMATELY 1814 PERSONS, INCLUDING 791 PRESUMED TERRORISTS, DIED IN ARMED CLASHES IN 1989. PREVIOUSLY THE GOVERNMENT CLAIMED TO HAVE KILLED 4500 TERRORISTS FROM 1980-1988, INCLUDING 630 IN 1988. THOUGH THE MILITARY MAY INFLATE THESE COUNTS, CONFIRMED KILLINGS OF TERRORISTS MAY ALSO BE UNDERREPORTED SINCE SENDERO ATTEMPTS TO RETRIEVE ALL ITS CASUALTIES, INCLUDING FATALITIES, AFTER CLASHES WITH THE MILITARY. LOCAL HUMAN RIGHTS GROUPS CLAIM THAT A SIGNIFICANT BUT UNKNOWN NUMBER OF CAPTURED TERRORISTS AND INNOCENT CIVILIANS WERE EXECUTED BY THE MILITARY. BOTH SENDERO AND THE MILITARY ARE KNOWN TO HAVE BLOCKED PASSAGE OF RELIEF SUPPLIES AND HUMANITARIAN ASSISTANCE. THE INTERNATIONAL RELIEF ORGANIZATION "MEDICINS SANS FRONTIERES" SUSPENDED ITS EFFORTS IN THE EMERGENCY ZONES.

39. ABUSE OF THE RIGHTS OF PRISONERS (ABLE-BODIED, WOUNDED AND SICK ALIKE) WAS WIDESPREAD BY BOTH



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DOL PASS ILAB/OFR-T. LINSINHAYER

E.O. 12356: N/A  
 TAGS: PHUM, PC  
 SUBJECT: DRAFT PERU COUNTRY REPORT ON HUMAN RIGHTS

SECURITY AND TERRORIST FORCES. THE MILITARY'S VIOLATIONS OF INTERNATIONAL NORMS RANGED FROM THE ROUTINE BLINDFOLDING OF PRISONERS TO THE FREQUENT REFUSAL TO ADMIT TO HOLDING CERTAIN PERSONS IN DETENTION TO THE LESS FREQUENT SUMMARY EXECUTION OF UNARMED PRISONERS. RESPONDING TO A SENDERO AMBUSH OF A MILITARY PATROL, FOR EXAMPLE, ARMY HELICOPTERS ON JUNE 19 STRAFED A VILLAGE NEAR AGUAYTIA IN THE UPPER HUALLAGA VALLEY, KILLING OR INJURING AN UNKNOWN NUMBER OF CIVILIANS.

40. SENDERO'S DISREGARD FOR THE RULES OF WAR AND HUMANITARIAN LAW ARE INFAMOUS. AS AMNESTY INTERNATIONAL REPORTED IN AUGUST, "THE VIOLENT ADVERSARIES OF THE GOVERNMENT ROUTINELY TORTURE, HUTILATE AND ASSASSINATE THEIR CAPTIVES."

41. NEITHER SIDE TO THE CONFLICT ENGAGED IN THE USE OF CHEMICAL WEAPONS OR THE USE OF OTHER PROSCRIBED WEAPONS, ALTHOUGH SENDERO ROUTINELY -- AND EQUALLY GROSSLY -- ACCUSED THE GOVERNMENT OF PRACTICING "GENOCIDE" THROUGH ITS USE OF TEBUTHIURON (NOW ONLY IN THE TESTING STAGE) AS A TOOL IN ITS COCA ERADICATION PROGRAMS.

42. IN FEBRUARY A DEMONSTRATION OF STRIKING FARMERS IN POCALLPA, UCAYALI (NOT THEN AN EMERGENCY ZONE) WAS BROKEN UP BY POLICE WHO MAY NOT HAVE KNOWN THAT LAST-MINUTE APPROVAL HAD BEEN GIVEN FOR THE DEMONSTRATION. EIGHT DIED AND DOZENS WERE WOUNDED AFTER THE POLICE FIRED FIRST TEAR GAS THEN BULLETS INTO THE CROWD. SOME 300 PERSONS WERE ARRESTED; MOST WERE QUICKLY RELEASED. CAMPESINO ORGANIZERS CLAIM 28 REMAIN UNACCOUNTED FOR AND ARE PRESUMED DEAD.

43. SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

THE CONSTITUTION PROVIDES FOR FREEDOM OF SPEECH AND THE PRESS. WITH EIGHT TELEVISION STATIONS, DOZENS OF RADIO STATIONS AND 15 DAILY NEWSPAPERS IN LIMA, PERUVIANS HAVE ACCESS TO AS BROAD A RANGE OF

INFORMATION AND INFORMATION ON THE CONTINENT. THE MEDIA ARE HIGHLY PARTISAN. THE GOVERNMENT OWNS ONE OF THE TWO NATIONAL TELEVISION NETWORKS, A RADIO NETWORK, AND THREE NEWSPAPERS: THE GOVERNMENT PARTY (APRA) OPERATES TWO NEWSPAPERS AND CLOSE ADVISORS OF THE PRESIDENT CONTROL A THIRD. THE INDEPENDENT MEDIA ARE FEISTY AND NOT SLOW TO CRITICIZE ANY BRANCH OF THE GOVERNMENT. MOST MAJOR OPPOSITION PARTIES BOAST THEIR OWN NEWSPAPERS, AND OPPOSITION FIGURES ALSO HAVE FREQUENT ACCESS TO THE GOVERNMENT MEDIA.

44. THERE WERE OCCASIONAL AND CREDIBLE COMPLAINTS OF GOVERNMENT PRESSURE ON THE MEDIA AND RESTRICTIONS ON JOURNALISTS. THERE WERE ALSO OCCASIONAL VIOLATIONS OF THE CONSTITUTIONAL GUARANTEES OF A FREE PRESS, BUT THERE WAS NO DISCERNIBLE TREND, NOR DID THEY CONSTITUTE GOVERNMENT POLICY.

45. JOURNALISTS WERE OFTEN BARRED FROM TRAVELING IN THE RURAL AREAS OF THE EMERGENCY ZONES, AND THOSE WHO ATTEMPTED TO DO SO ARE OCCASIONALLY DETAINED BY THE MILITARY, ALTHOUGH THEY ARE GENERALLY RELEASED WITHIN HOURS. THERE WERE ALSO FREQUENT COMPLAINTS OF POLICE CONFISCATION OF VIDEO AND PHOTOGRAPHIC MATERIAL OF EVENTS THE GOVERNMENT DID NOT WANT PUBLICIZED.

46. POLICE ARRESTED JANET TALAVERA, THE INTERIM DIRECTOR OF THE PRO-SENDERO NEWSPAPER "EL DIARIO" IN JUNE. SHE WAS DETAINED UNDER THE PROVISIONS OF THE "APOLOGIES FOR AND ENCOURAGEMENT OF TERRORISM" STATUTE. ADDITIONAL CHARGES OF COMMITTING TERRORIST ACTS WERE LATER FILED; SHE IS NOW AWAITING TRIAL. THERE ARE OUTSTANDING WARRANTS FOR THE ARREST OF THREE OTHER MEMBERS OF THE EL DIARIO STAFF. LUIS ARCE BORJA, THE PAPER'S PERMANENT DIRECTOR, IS UNDER INDICTMENT FOR "APOLOGIES FOR AND ENCOURAGEMENT OF TERRORISM" AND SPENT MOST OF THE YEAR LIVING PUBLICLY

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GAS, BLOKSHOT, AND FIRETRUCK-MOUNTED WATER CANNONS TO DISPERSE UNRULY OR THREATENING CROWDS. AT LEAST EIGHT AND POSSIBLY FIFTY MORE WERE KILLED IN FEBRUARY WHEN POLICE OPENED FIRE ON A DEMONSTRATION OF STRIKING FARMERS IN PUCALLPA (SEE SECTION 1.3).

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49. THERE ARE NO PARTICULAR RESTRICTIONS PLACED ON POLITICAL ACTIVITY BY TRADE ASSOCIATIONS OR PROFESSIONAL BODIES. SUCH ORGANIZATIONS ARE PERMITTED TO, AND ROUTINELY DO, MAINTAIN RELATIONS OR AFFILIATE WITH RECOGNIZED INTERNATIONAL BODIES IN THEIR RESPECTIVE FIELDS.

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50. FOR A DISCUSSION OF FREEDOM OF ASSOCIATION AS IT APPLIES TO LABOR UNIONS, SEE SECTION 6. A.

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51.  
C. FREEDOM OF RELIGION

E.O. 12356: N/A  
TAGS: PHUM, PE  
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ROMAN CATHOLICISM PREDOMINATES IN PERU, AND THE CONSTITUTION FORMALLY RECOGNIZES THE CHURCH. THE CONSTITUTION ALSO ESTABLISHES THE SEPARATION OF CHURCH AND STATE AND ENSURES FREEDOM OF RELIGION AND CONSCIENCE. THESE RIGHTS ARE RESPECTED IN PRACTICE. MEMBERS OF MINORITY RELIGIONS ENCOUNTER NO GOVERNMENT INTERFERENCE IN PRACTICING THEIR FAITH OR IN EXEMPTING THEIR CHILDREN FROM RELIGIOUS INSTRUCTION IN PUBLIC SCHOOLS. ORGANIZED RELIGIONS ARE FREE TO ESTABLISH PLACES OF WORSHIP, TRAIN CLERGY, ENGAGE IN RELIGIOUS PUBLISHING AND PROSELYTIZE. FOREIGN-BORN CLERGY ARE NOT BARRER FROM ENTRY; RATHER, THEY CONSTITUTE A SIGNIFICANT PRESENCE, EVEN WITHIN THE DOMINANT CATHOLIC CHURCH. MISSIONARY ORGANIZATIONS OPERATE FREELY IN THE COUNTRY WITH THE COOPERATION OF GOVERNMENT MINISTRIES.

IN EUROPE. A LOCAL NEWSPAPER ATTEMPTED TO INVOKE THE SAME STATUTE AGAINST CESAR HILDEBRANDT, ONE OF THE COUNTRY'S MOST PROMINENT JOURNALISTS. HILDEBRANDT ALLEGED THAT THE MOVE WAS ORCHESTRATED FROM THE PRESIDENTIAL PALACE. WHATEVER ITS REAL SOURCE, THE MOVE ULTIMATELY CAME TO NAUGHT. THIS ANTI-TERRORISM STATUTE HAS BEEN APPLAUDED BY SOME JOURNALISTS AS NECESSARY; OTHERS FEAR THAT IT CAN BE USED TO STIFLE PRESS FREEDOM.

47. JOURNALISTS WERE SOMETIMES THE VICTIMS OF VIOLENCE AND THREATS. THREE NOTED JOURNALISTS WERE KILLED IN 1989, ALTHOUGH THE COLLEGE OF PERUVIAN JOURNALISTS REPORTED THAT AS MANY AS 22 PERSONS INVOLVED IN THE NEWS MEDIA WERE KILLED. THE CRF IS SUSPECTED IN THE JANUARY MURDER OF AN AYACUCHO JOURNALIST, ALONG WITH HIS WIFE AND TWO CHILDREN. IN APRIL TINGO MARIA RADIO PERSONALITY GUILLERMO LOPEZ SALAZAR WAS SHOT TO DEATH IN HIS HOME BY SUSPECTED CRF TERRORISTS. SENDERO KILLED PERU'S MOST PROMINENT ENVIRONMENTAL REPORTER IN MAY. THERE WERE ALSO DEATH THREATS AGAINST JOURNALISTS. THE LOCAL ANSA CORRESPONDENT TEMPORARILY FLED THE COUNTRY IN MAY AFTER A REPORTED TREAT.

44.  
B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

THESE RIGHTS ARE EXPRESSLY PROVIDED FOR IN THE CONSTITUTION AND WERE NORMALLY RESPECTED IN PRACTICE IN AREAS NOT UNDER A STATE OF EMERGENCY (WHERE THE RIGHT OF ASSEMBLY IS SUSPENDED). REGISTRATION OF PRIVATE ORGANIZATIONS IS NOT REQUIRED. PUBLIC MEETINGS IN PLAZAS OR STREETS REQUIRE ADVANCE PERMISSION, WHICH CAN ONLY BE DENIED FOR REASONS OF SECURITY OR PUBLIC HEALTH. MUNICIPAL AUTHORITIES USUALLY APPROVED PERMITS FOR DEMONSTRATIONS IN NON-EMERGENCY ZONES. MANY UNAUTHORIZED DEMONSTRATIONS ALSO OCCURRED, AND, FOR THE MOST PART, THE GOVERNMENT DEALT WITH THEM IN A NONCONFRONTATIONAL MANNER. HOWEVER, AS OPPOSITION GROUPS ADOPTED MORE PROVOCATIVE AND VIOLENT TACTICS, THE GOVERNMENT OFTEN DENIED PERMITS OR BROKE UP MARCHES. POLICE RESORTED MORE OFTEN TO CLUBS, TEAR

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INFO SECT-01 FILE-01 04A-05 PPC-01 ECP-01 OAS-01 PPA-01  
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GROUPS OR KIDNAPPING RINGS, THE GOVERNMENT WITHHELD ITS PLANS TO PUBLISH ADDITIONAL NAMES.

INFO LOS-00 AOS-02 AIO-09 IHR-07 SS-02 OIC-02 CIAE-00  
EB-00 CODE-00 N-01 IO-19 YSCE-00 RA-00 NSAE-00  
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USIE-00 CP-02 ER-06 PPS-01 P-02 052 V

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

R 032144Z OCT 89  
FM AMEMBASSY LIMA  
TO SECSTATE WASHDC PRIORITY 2263  
A/DEPT OF LABOR WASHDC

PERU IS A DEMOCRACY GOVERNED BY A FREELY ELECTED PRESIDENT AND CONGRESS. THE POLITICAL PROCESS IS OPEN AND ELECTIONS ARE THOROUGHLY CONTESTED BY PARTIES RANGING FROM CONSERVATIVE TO MARXIST OR LENINIST. IN THE NOVEMBER 1989 MUNICIPAL ELECTIONS, FOR EXAMPLE, TEN POLITICAL MOVEMENTS FIELDED CANDIDATES FOR MAYOR OF LIMA. SENDERO LUMINOSO PERSISTENTLY SOUGHT TO DENY CITIZENS THEIR POLITICAL RIGHTS -- PARTICULARLY IN REMOTE MOUNTAIN AREAS -- BY KILLING CANDIDATES AND ELECTED OFFICIALS AND THREATENING VOTERS. SENDERO LEADERS REPEATEDLY AND PUBLICLY STATED THEIR INTENTION TO DISRUPT THE 1990 PRESIDENTIAL ELECTIONS, JUST AS THEY TRIED TO DISRUPT THE NOVEMBER 1989 MUNICIPAL ELECTIONS. THE NATIONAL ELECTIONS BOARD (NE) REPORTED THAT AS OF JULY 1989, OVER 500 MAYORAL AND CITY ALDERMEN ELECTED IN THE GENERAL MUNICIPAL ELECTIONS OF 1986 HAD BEEN FORCED FROM THEIR POSTS BY TERRORIST THREATS OR VIOLENCE. CLOSE TO SIXTY MAYORS AND OTHER MUNICIPAL, DISTRICT AND PROVINCIAL OFFICIALS WERE KILLED BY SENDERO DURING 1988. AFTER SENDERO ASSASSINATED FERMIN ALPARRANT, THE MAYOR OF AYACUCHO CITY, ON SEPTEMBER 19, SENDERO WARNED THAT ANY MAYORAL OR CITY ALDERMAN CANDIDATE IN AYACUCHO WHO DID NOT WITHDRAW HIS CANDIDACY WITHIN 24 HOURS WOULD ALSO BE KILLED.

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DOL PASS ILAB/OFR-T. LINSNHAYER

E.O. 12356: N/A  
TAGS: PHUM, PE  
SUBJECT: DRAFT PERU COUNTRY REPORT ON HUMAN RIGHTS

52. NONETHELESS, PARTICULAR MEMBERS OF VARIOUS RELIGIOUS ORGANIZATIONS REPORT HAVING RECEIVED DEATH THREATS FROM SENDERO, MRTA OR THE RODRIGO FRANCO COMMAND DURING 1989. SEVERAL RELIGIOUS WORKERS WERE KILLED. THESE INCIDENTS APPEAR PROMPTED BY THE TERRORIST GROUP'S PERCEPTION THAT A GIVEN INDIVIDUAL'S ACTIVITIES "STRAYED" FROM PASTORAL TO POLITICAL.

53. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

56. SUFFRAGE IS BOTH UNIVERSAL AND MANDATORY FOR PERSONS 18 TO 70 YEARS OF AGE, EXCEPT FOR ACTIVE DUTY POLICE OR MILITARY, WHO ARE BARRED FROM VOTING OR HOLDING PUBLIC OFFICE. FAILURE TO REGISTER TO VOTE

THE CONSTITUTION PROVIDES FOR THE RIGHT OF FREE MOVEMENT, AND THERE ARE NO POLITICAL OR LEGAL CONSTRAINTS ON FOREIGN TRAVEL OR EMIGRATION. APPROXIMATELY 150,000 PERUVIANS EMIGRATED TO OTHER NATIONS IN 1988. EVEN GREATER NUMBERS EMIGRATED IN 1989. ALL PERUVIANS, INCLUDING MINORS, LEAVING THE COUNTRY PERMANENTLY OR TEMPORARILY MUST PAY A US DOLLAR 100 DEPARTURE TAX (REGARDLESS OF THE MODE OF TRANSPORT) AND A TWENTY-ONE PERCENT TAX ON AIRLINE TICKETS, IN ADDITION TO HOLDING A VALID PASSPORT (US DOLLAR 55). THESE AMOUNTS CONSTITUTE A PROHIBITIVE EXPENSE FOR MILLIONS OF PERUVIANS. FREEDOM OF MOVEMENT IS SUSPENDED IN THOSE AREAS UNDER A STATE OF EMERGENCY. THERE HAVE BEEN NO MAJOR RESETTLEMENT EFFORTS BY THE SECURITY FORCES IN SEVERAL YEARS. PERU IS A PARTY TO THE 1967 UNITED NATIONS PROTOCOL ON THE STATUS OF REFUGEES. PERSONS FLEEING TROUBLE IN OTHER COUNTRIES TRADITIONALLY HAVE BEEN ENCOURAGED TO RETURN EVENTUALLY TO THEIR COUNTRY OF ORIGIN OR TO EMIGRATE TO THIRD COUNTRIES, BUT HAVE NOT BEEN FORCED TO DO SO. INVOLUNTARY REPATRIATION OCCURS ONLY IN CASES OF PERSONS ACCUSED OF NONPOLITICAL CRIMES.

54. IN A REPORTED ATTEMPT TO CATCH TAX EVADERS, THE GOVERNMENT IN AUGUST PUBLISHED A LIST OF 81 CITIZENS WHO HAD TRAVELED ABROAD FIVE OR MORE TIMES SINCE JANUARY. UNDER A WAVE OF CRITICISM FOR PUBLICLY INCRIMINATING INDIVIDUALS WHO HAD NOT BEEN FORMALLY ACCUSED OF ANY CRIMES, AS WELL AS IDENTIFYING POSSIBLE FUTURE TARGETS FOR THE NATION'S TERRORIST

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R 032144Z OCT 83  
FM AMEMBASSY LIMA  
TO SECSTATE WASHDC PRIORITY 2264  
A//DEPT OF LABOR WASHDC

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DOL PASS ILAB/CFR-T. LINSENMAYER

E.O. 12356: N/A  
TAGS: PHUM, PE  
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IS PUNISHABLE BY A FINE OF 13,632 INTIS (APPROXIMATELY US DOLLAR 4 WHEN THE FINE'S NEW AMOUNT WAS ANNOUNCED IN AUGUST). FAILURE TO VOTE IS PUNISHABLE BY A SEPARATE FINE OF 27,725 INTIS. BALLOTING IS DIRECT AND SECRET; THE VOTER'S ELECTORAL CARD (WHICH ALSO SERVES AS NATIONAL IDENTITY CARD) IS STAMPED AND A FINGER IS MARKED WITH INDELIBLE INK TO PREVENT MULTIPLE VOTING. ELECTIONS ARE HELD EVERY FIVE YEARS FOR PRESIDENT AND THE TWO VICE PRESIDENTS, AS WELL AS FOR THE SENATE AND CHAMBER OF DEPUTIES; THE PRESIDENT IS BARRED FROM RUNNING FOR CONSECUTIVE TERMS OF OFFICE. ELECTIONS FOR THE NATION'S NEWLY ESTABLISHED REGIONAL PARLIAMENTS ARE TO BE HELD EVERY THREE YEARS, AT THE TIME OF THE NATION'S MUNICIPAL ELECTIONS. THE JULY 1985 INAUGURATION OF PRESIDENT GARCIA MARKED THE FIRST TRANSFER OF POWER BETWEEN DEMOCRATICALLY ELECTED GOVERNMENTS IN 48 YEARS.

57. UNDER PERU'S CONSTITUTION OF 1979 THE GOVERNMENT IS HEADED BY A POWERFUL EXECUTIVE. MORE THAN 95 PERCENT OF ALL NEW LAWS ARE ENACTED THROUGH UNILATERAL PRESIDENTIAL DECREES. NONETHELESS THE LEGISLATURE (CURRENTLY ALSO DOMINATED BY THE APRA PARTY) FREELY AND OPENLY DEBATES GOVERNMENT POLICIES AND DOES ON OCCASION VOTE AGAINST GOVERNMENT POSITIONS.

58. THE POLITICAL SYSTEM, ALTHOUGH LEGALLY OPEN TO ALL, IS DOMINATED BY PERUVIAN MALES OF EUROPEAN OR MIXED EUROPEAN AND INDIGENOUS BACKGROUND. THERE ARE FEW WOMEN OR PERUVIANS OF PURE INDIAN HERITAGE IN POSITIONS OF NATIONAL POLITICAL LEADERSHIP, ALTHOUGH THEY ENJOY GREATER ACCESS TO THE POLITICAL SYSTEM AT THE LOCAL LEVEL.

59. THERE ARE THREE WOMEN IN THE 60-MEMBER SENATE AND TEN IN THE 133-MEMBER CHAMBER OF DEPUTIES. THE ONE WOMAN IN THE FIFTEEN-MEMBER COUNCIL OF MINISTERS DURING MOST OF THE YEAR (EDUCATION MINISTER MERCEDES CABANILLAS) RESIGNED IN SEPTEMBER TO RUN FOR MAYOR OF LIMA. SHORTLY THEREAFTER ANOTHER WOMAN WAS APPOINTED TO THE COUNCIL AS MINISTER OF JUSTICE.

60.

SECTION 4 GOVERNMENTAL ATTITUDES REGARDING  
INTERNATIONAL AND NON-GOVERNMENTAL  
INVESTIGATION OF ALLEGED VIOLATIONS OF

AMNESTY INTERNATIONAL LAST SENT A FORMAL DELEGATION TO PERU IN NOVEMBER 1983, AND WAS RECEIVED BY VARIOUS MEMBERS OF THE CABINET. OUTSIDE OF THE EMERGENCY ZONES, THE GOVERNMENT DID NOT IMPEDE OR RESTRICT THEIR ACCESS. IN MAY 1983 AMNESTY FORWARDED A DRAFT REPORT TO THE GOVERNMENT FOR COMMENT BUT NEVER RECEIVED A REPLY. AMNESTY PUBLISHED THE REPORT, "PERU: HUMAN RIGHTS AND STATE OF EMERGENCY" IN LATE AUGUST, NOTING THAT "GRAVE VIOLATIONS OF HUMAN RIGHTS" HAD INCREASED THROUGHOUT THE PREVIOUS EIGHTEEN MONTHS. ACCESS BY THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) TO THE EMERGENCY ZONES AND TO DETAINEES (IDENTIFIED IN MID-1983) WAS RESTORED IN EARLY 1985. THE ICRC ESTABLISHED TEAMS RESIDENT IN THE CITIES OF ABANCAY (APURIMAC DEPARTMENT), TINGO MARIA (HUANUCO DEPARTMENT) AND AYACUCHO, PROVIDING THE FULL COMPLEMENT OF TRADITIONAL ICRC SERVICES TO CONFLICTIVE ZONES. THE ICRC IS BELIEVED TO BE THE LAST INTERNATIONAL HUMANITARIAN ORGANIZATION OPERATING IN AYACUCHO DEPARTMENT.

61. 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. ALTHOUGH MOST GROUPS STATE THAT THEY ARE USUALLY NOT HARASSED OR THREATENED BY THE GOVERNMENT, INCIDENTS CONTINUED TO OCCUR: IN SEPTEMBER THREE VISITING HUMAN RIGHTS LAWYERS AND FIVE LOCAL RESIDENTS PREPARING A SEMINAR ON CONSTITUTIONAL RIGHTS WERE ARRESTED ON TERRORISM CHARGES IN SAN MARCOS PROVINCE OF CAJAMARCA DEPARTMENT. THEY WERE HELD FOR TWO AND ONE-HALF DAYS

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R 032144Z OCT 89  
 FM AMEMBASSY LIMA  
 TO SECSTATE WASHDC PRIORITY 2265  
 A//DEPT OF LABOR WASHDC

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DOL PASS ILAB/OFR-T, LINSINKMAYER

E.O. 12356: N/A  
 TAGS: PHUM, PE  
 SUBJECT: DRAFT PERU COUNTRY REPORT ON HUMAN RIGHTS

BEFORE ALL CHARGES WERE DROPPED AND THE EIGHT WERE RELEASED. HUMAN RIGHTS GROUPS ALSO RECEIVED THREATS FROM TERRORIST GROUPS, MOSTLY FROM SENDERO -- GRAFFITI TO THE EFFECT "DOWN WITH BOURGEOIS HUMAN RIGHTS" HAVE BECOME ALL TOO COMMON IN THE EMERGENCY ZONES -- BUT ALSO FROM THE CRF. DUE TO VIOLENCE AND THE SPECIFIC THREAT OF CONTINUED VIOLENCE, A NUMBER OF HUMAN RIGHTS AND HUMANITARIAN ASSISTANCE ORGANIZATIONS WERE FORCED TO CLOSE THEIR OFFICES IN PARTICULAR EMERGENCY ZONES DURING 1983.

62. SEVERAL PRIVATE HUMAN RIGHTS ORGANIZATIONS CONSTITUTE THE INDEPENDENT NATIONAL COORDINATOR FOR HUMAN RIGHTS. THESE INCLUDE THE NATIONAL HUMAN RIGHTS COMMISSION, THE INSTITUTE FOR LEGAL DEFENSE, THE ASSOCIATION FOR HUMAN RIGHTS AND THE CATHOLIC CHURCH'S COMMISSION FOR SOCIAL ACTION. OTHER SMALLER GROUPS WORK IN THE DEPARTMENTAL CAPITALS AND OTHER CITIES. THESE GROUPS ARE GENERALLY CREDIBLE OBSERVERS, INVESTIGATING AND REPORTING ON HUMAN RIGHTS ABUSES TO THE EXTENT POSSIBLE, REGARDLESS OF THE PERPETRATOR. DUE TO THE NATURE OF THOSE TERRORIST GROUPS ATTACKING THE GOVERNMENT OF PERU, AS WELL AS DUE TO THE NON-GOVERNMENTAL NATURE OF THE HUMAN RIGHTS GROUPS, THE LATTER'S ADVOCACY PROGRAMS CENTER PRIMARILY THOUGH NOT EXCLUSIVELY ON IMPROVING THE CONDUCT OF GOVERNMENT, RATHER THAN ARMED OPPOSITION FORCES. LIMA IS ALSO THE HEADQUARTERS OF THE ANDEAN COMMISSION OF JURISTS.

63. IN 1983 THE GOVERNMENT REPEATEDLY COMPLAINED THAT BOTH LOCAL AND INTERNATIONAL HUMAN RIGHTS GROUPS DISTORT OR EXAGGERATE PERU'S HUMAN RIGHTS PROBLEMS. THE GOVERNMENT'S GENERAL NONRESPONSIVENESS TO SPECIFIC INQUIRIES, HOWEVER, HAS DONE LITTLE TO IMPROVE ITS CREDIBILITY.

64.  
 SECTION 5 DISCRIMINATION BASED ON RACE, SEX,  
 - RELIGION, LANGUAGE OR SOCIAL STATUS

THE CONSTITUTION GRANTS WOMEN EQUALITY WITH MEN. AND LAWS ON MARRIAGE, DIVORCE AND PROPERTY RIGHTS DO NOT DISCRIMINATE AGAINST WOMEN. NEVERTHELESS, TRADITION

IMPEDES THE ACCESS OF WOMEN TO LEADERSHIP ROLES IN MAJOR SOCIAL AND POLITICAL INSTITUTIONS. THE AVERAGE WAGE OF MALE WORKERS IS DOUBLE THAT OF FEMALES. IN 1987, THE LAST YEAR FOR WHICH GOVERNMENT STATISTICS ARE AVAILABLE, 66.2 PERCENT OF THE FEMALE WORK FORCE WAS EMPLOYED IN COMMERCE AND SERVICES, 16.7 PERCENT IN INDUSTRY AND 15.1 PERCENT IN OTHER OCCUPATIONS, MAINLY AS DOMESTICS. WOMEN REPRESENT AT LEAST 40.2 PERCENT OF THE FORMAL LABOR FORCE. AS THE NATION'S ECONOMIC CRISIS CONTINUED, HOWEVER, MORE WOMEN WERE FORCED TO WORK OUTSIDE OF THE HOME. ACCORDING TO A UNIVERSITY STUDY CONDUCTED IN JULY, FULLY 65 PERCENT OF THOSE WOMEN WHO IDENTIFIED THEMSELVES AS "HOUSEWIVES" ALSO FOUND IT NECESSARY TO FIND PAYING WORK OUTSIDE THE HOME, PRIMARILY AS STREET VENDORS OR IN SERVICE INDUSTRIES. AS IN MANY MALE-DOMINATED LATIN CULTURES, SPOUSE ABUSE IS A CHRONIC PROBLEM. ANECDOTAL REPORTS INDICATE THAT SUCH ABUSE IS INCREASING IN FREQUENCY AS THE NATION'S POLITICAL AND ECONOMIC FRUSTRATIONS GROW. IN LATE 1988 A SPECIAL POLICE CENTER, STAFFED BY POLICEWOMEN, WAS ESTABLISHED IN LIMA TO PROVIDE LEGAL, MEDICAL AND PSYCHIATRIC ASSISTANCE TO ABUSED SPOUSES AND CHILDREN. A NUMBER OF WOMEN'S ORGANIZATIONS ARE ACTIVE IN PERU, RANGING FROM THE "MOTHERS' CLUBS," INSTRUMENTAL IN ASSISTING THE GOVERNMENT'S CHILD MILK PROGRAM, TO FEMINIST GROUPS SUCH AS THE FLORA TRISTAN CENTER OF PERUVIAN WOMEN.

65. PERU'S RURAL, INDIGENOUS POPULATION AND ITS SMALL BLACK POPULATION WERE ALSO SUBJECT TO SERIOUS DISCRIMINATION. THE FORMER GROUP, MOSTLY SPEAKERS OF QUECHUA, AYMARA AND OTHER NATIVE LANGUAGES, TRADITIONALLY HAS LACKED ACCESS TO PUBLIC SERVICES. PERU IS A CLASSIC CASE OF DIFFERENTIAL DEVELOPMENT, WITH PUBLIC INVESTMENT TRADITIONALLY FOCUSED ON THE COAST, DRAWING MIGRANTS TO THE CITIES, ESPECIALLY

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COUNTRYSIDE AND THOSE INVOLVED IN THE FIRST UNDERGROUND "INFORMAL" SECTOR THAT WORK OUTSIDE GOVERNMENT REGULATIONS.

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 L-03 TRSE-00 PA-01 STR-10 SIL-01 INRE-00 RP-10  
 USIE-00 SF-00 SR-06 PRS-01 P-02 /052 W

68. ALTHOUGH A SIGNIFICANT PERCENTAGE OF PERUVIAN ORGANIZED LABOR BELONGS TO INDEPENDENT UNIONS AND FEDERATIONS, THOSE UNIONS WITH A PARTY AFFILIATION ARE ROUTINELY MANIPULATED TO SERVE POLITICAL INTERESTS. IN EARLY 1989, FOR EXAMPLE, MEMBERS OF THE APRA-AFFILIATED CONFEDERATION OF PERUVIAN WORKERS (CTP) WERE EVICTED FROM THEIR BUILDING BY A RIVAL FACTION WITH POLICE ASSISTANCE. THE FACT THAT AN EVICTION TOOK PLACE HAS BEEN DENIED BY THE CURRENT CTP LEADERSHIP AND MEMBERS OF THE APRA GOVERNMENT. POLITICAL PARTIES CONTROLLING A UNION WILL ALSO PREVENT ANYONE FROM OUTSIDE THE PARTY FROM ASSUMING A LEADERSHIP POSITION WITHIN A UNION. OTHER RESTRICTIONS ON WHO MAY BE A UNION OFFICIAL APPLY TO FOREIGNERS AND ANYONE FROM OUTSIDE THE BUSINESS/ENTERPRISE BEING ORGANIZED.

R 032144Z OCT 89  
 FM AMEMBASSY LIMA  
 TO SECSTATE WASHDC PRIORITY 2266  
 A//DEPT OF LABOR WASHDC

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DOL PASS ILAB/CFR-T. LINSEHMAYER

E.O. 12356: N/A  
 TAGS: PHUM, PE  
 SUBJECT: DRAFT PERU COUNTRY REPORT ON HUMAN RIGHTS

69. PERU IS AN ACTIVE MEMBER OF THE INTERNATIONAL LABOR ORGANIZATION. THE CTP IS A MEMBER OF ORIT (THE INTERAMERICAN REGIONAL ORGANIZATION OF WORKERS) AND IS AFFILIATED WITH THE INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS (ICFTU). THE COMMUNIST PARTY-CONTROLLED GENERAL CONFEDERATION OF PERUVIAN WORKERS (CGTP) IS AFFILIATED WITH THE SOVIET-DOMINATED WORLD FEDERATION OF TRADE UNIONS (WFTU) AND ITS LATIN AMERICAN ORGANIZATION, THE PERMANENT CONGRESS FOR TRADE UNION UNITY OF LATIN AMERICA (CPUSTAL).

LIMA. RECOGNIZING THIS FACT, THE GOVERNMENT HAS INCREASED 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 OUT OF THE MAINSTREAM OF HISPANIC CULTURE, AND BY THE CONTINUED DISRUPTION OF THESE EFFORTS BY SEKDERO. AS A RESULT OF CURRENT PROBLEMS, AS WELL AS HISTORIC AND CONTINUED PREJUDICE, THE ECONOMIC AND SOCIAL NEEDS OF PERUVIANS OF EUROPEAN ANCESTRY CONTINUED TO BE MET TO A FAR GREATER EXTENT THAN THOSE OF PERUVIANS OF MIXED OR PURE INDIAN HERITAGE.

70. THE CONSTITUTION PROVIDES FOR THE RIGHT TO STRIKE "ACCORDING TO LAW." THERE IS NO STRIKE LAW, HOWEVER, EVEN THOUGH CONGRESS HAS CONSIDERED VARIOUS

66.  
 SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

THE CONSTITUTION PROVIDES FOR THE RIGHT OF WORKERS TO FREELY ASSOCIATE AND FORM LABOR UNIONS WITHOUT PREVIOUS AUTHORIZATION. IN PRACTICE, HOWEVER, THERE ARE LEGAL RESTRICTIONS ON THE RIGHT TO ORGANIZE (SEE BELOW), AND A REGISTRATION REQUIREMENT WITH THE MINISTRY OF LABOR IN ORDER FOR THE UNION TO BECOME LEGAL AND CAPABLE OF PERFORMING ITS FUNCTIONS. SUSPENSION OR DISSOLUTION OF LABOR UNIONS IS FORBIDDEN BY THE CONSTITUTION, BUT IT CAN BE DONE LEGALLY THROUGH THE CIVIL COURT SYSTEM AT THE REQUEST OF THE UNION ITSELF, OR BY CANCELLATION OF THE UNION'S REGISTRATION BY THE MINISTRY. UNIONS MAY FORM INDUSTRY-WIDE FEDERATIONS WHICH CAN, IN TURN, FORM CONFEDERATIONS, ALL OF WHICH CAN BE AFFILIATED WITH INTERNATIONAL LABOR ORGANIZATIONS. PRIVATE AND PUBLIC SECTOR UNIONS OF WORKERS PERFORMING THE SAME TYPE OF WORK CANNOT JOIN TOGETHER AT ANY LEVEL. POLICE AND MILITARY ARE PROSCRIBED FROM FORMING UNIONS.

57. TRADITIONALLY, ABOUT 18 PERCENT OF THE LABOR FORCE IS ORGANIZED. ORGANIZED LABOR, HOWEVER, IS FOUND IN INDUSTRIES RESPONSIBLE FOR ABOUT 70 PERCENT OF PERU'S GROSS NATIONAL PRODUCT. THE MAJORITY OF (NON-ORGANIZED) PERUVIAN WORKERS ARE THOSE IN THE

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R 032144Z OCT 89  
 FM AEMBASSY LIMA  
 TO SECSTATE WASHDC PRIORITY 2267  
 A//DEPT OF LABOR WASHDC

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DOL PASS (LAB/OPR-T. LINSEMMAYER

E.O. 12356: N/A  
 TAGS: PHUM, PE  
 SUBJECT: DRAFT PERU COUNTRY REPORT ON HUMAN RIGHTS

IMPLEMENTING BILLS SINCE THE CONSTITUTION WAS PROMULGATED IN 1978. BY SUPREME EXECUTIVE DECREE (WHICH DEFINES SOME STRIKE BEHAVIOR IN THE ABSENCE OF A FORMAL LAW), WORKERS IN THE PRIVATE SECTOR MUST GIVE 72-HOUR NOTICE TO THE EMPLOYER AND THE MINISTRY OF LABOR BEFORE GOING ON STRIKE. WHEN DIRECT NEGOTIATIONS BETWEEN WORKERS AND EMPLOYERS BREAK DOWN, THE GOVERNMENT INTERVENES AND CONSTITUTES A TRIPARTITE (GOVERNMENT, MANAGEMENT, LABOR) BOARD TO REVIEW THE SITUATION. IF NO AGREEMENT IS REACHED, THE GOVERNMENT THEN WEIGHS THE OVERALL ECONOMIC IMPLICATIONS OF THE EMPLOYER'S AND THE WORKERS' POSITIONS AND MAKES A DECISION. THE DECISION CAN BE APPEALED IN THE CIVIL COURT SYSTEM. THE GOVERNMENT WILL THEN MAKE A FINAL OFFER WHICH, IF REJECTED, WILL OPEN THE WAY FOR DECLARING THE STRIKE ILLEGAL. A GOVERNMENT DETERMINATION THAT THE STRIKE IS ILLEGAL CAN LEAD TO THE DISMISSAL OF WORKERS OR UNION LEADERS AND PERMITS EMPLOYERS TO HIRE STRIKEBREAKERS LEGALLY. DESPITE THESE RESTRICTIONS, INNUMERABLE STRIKES, OFTEN WILDCAT IN NATURE, DID TAKE PLACE IN 1989. THERE ARE NO NORMS REGULATING STRIKES IN THE PUBLIC SECTOR AND ALL SUCH STRIKES WERE THEREFORE OPEN TO LEGAL CHALLENGE.

71. IN SPITE OF A CONSTITUTIONAL RIGHT TO STRIKE AND PROCEDURES TO CALL THEM, NEARLY ALL STRIKES IN PERU ARE DECLARED ILLEGAL. THE REASON FOR THIS IS THAT THE ULTIMATE DECISION ON THE LEGALITY OF A STRIKE RESTS WITH AN ORGAN OF THE EXECUTIVE, THE MINISTRY OF LABOR, AN INTERESTED PARTY. SHOULD THE SOLUTION PRESENTED BY THE GOVERNMENT TO THE DEMANDS OF WORKERS NOT BE ACCEPTED, THE STRIKE IS DECLARED ILLEGAL. YET, THE PENALTIES ON THE WORKERS WHO STRIKE ILLEGALLY ARE SELDOM IMPLEMENTED. FOR EXAMPLE, DURING THE HUNDRED-PLUS DAYS OF AN ILLEGAL DOCTORS STRIKE, A FEW DOCTORS WERE TAKEN TO COURT FOR ABANDONING THE HOSPITALS, BUT THEY WERE NOT FIRED FROM THEIR JOBS. THE STRIKE ENDED WHEN THE GOVERNMENT STARTED HIRING ADDITIONAL DOCTORS TO STAFF STATE-RUN HOSPITALS. THE DOCTORS' SALARY DEMANDS WERE ONLY PARTLY MET.

72.  
 B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

BY LAW, EMPLOYERS CANNOT DISCRIMINATE AGAINST UNION MEMBERS OR ORGANIZERS. IN PRACTICE, HOWEVER, UNION ACTIVISTS ARE SOMETIMES HARASSED BY EMPLOYERS WHO THREATEN TO FIRE THEM, OR WHO PAY OFF THE WORKERS TO LEAVE THE ENTERPRISE. THE WORKERS CAN APPEAL THEIR CASE THROUGH THE MINISTRY OF LABOR OR, IN CASE A DECISION IS NOT ACCEPTABLE TO BOTH PARTIES, THROUGH THE CIVIL COURTS. THROUGHOUT THIS PROCESS, WHICH COULD BE LENGTHY, THE WORKER IS KEPT ON THE COMPANY'S PAYROLL UNTIL A FINAL LEGAL RULING IS OBTAINED.

73. GOVERNMENT RULES STIPULATE THAT, IN THE PRIVATE SECTOR, UNIONS CAN BE FORMED ONLY IN ENTERPRISES WITH 20 OR MORE WORKERS, AND ONLY IF MORE THAN 50 PERCENT OF THE WORKERS REQUEST IT. ONLY ONE UNION IS ALLOWED FOR EACH ENTERPRISE OR PLACE OF WORK AND BY CATEGORY OF WORKER, BLUE- OR WHITE-COLLAR. IN THE PUBLIC SECTOR, 20 PERCENT OF THE WORKERS CAN REQUEST A UNION, THUS ALLOWING UP TO FIVE UNIONS TO REPRESENT THE SAME GROUP OF WORKERS. AMONG THE RESTRICTIONS APPLYING TO PUBLIC SECTOR UNIONS IS A ONE-YEAR TERM, WITHOUT RE-ELECTION, FOR THE LEADERSHIP. THE RIGHT TO COLLECTIVE BARGAINING IS GUARANTEED UNDER THE CONSTITUTION, BUT THERE ARE RESTRICTIONS ON WHAT CAN BE NEGOTIATED. IN THE PUBLIC SECTOR, FOR EXAMPLE, ONLY WORKING CONDITIONS CAN BE NEGOTIATED, AND THEN ONLY IF THE CHANGES DO NOT INVOLVE EXPENSES GREATER THAN THE FUNDS ALREADY BUDGETED. IN THE PRIVATE SECTOR, COLLECTIVE BARGAINING CAN COVER BOTH WORKING CONDITIONS AND PAY. LABOR LAWS AND REGULATIONS ARE APPLIED UNIFORMLY THROUGHOUT THE COUNTRY.

74.  
 C. PROHIBITION OF FORCED OR COMPULSORY LABOR

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INFO SECT-01 FILE-01 ARA-06 PPC-01 ECP-01 OAS-01 PPA-01  
 GAND-01 PE-03 /016 A2 TE

FOR A DEMAND FROM THE WORKERS TO IMPROVE CONDITIONS. ACCIDENTS ARE COMMON, AND USUALLY THERE IS NO EMPHASIS ON PREVENTION, ALTHOUGH ONCE THEY HAPPEN, EMPLOYERS NORMALLY MAKE COMPENSATION.

INFO LOG-03 ADS-02 AID-08 IHR-07 SS-08 OIC-02 CIAE-08  
 EB-08 DSOE-02 H-01 IO-19 NSCE-08 ASA-02 NSAE-08  
 L-03 TSEE-08 PA-01 STR-18 SIL-01 INRE-23 RP-13  
 USIE-08 SP-02 SP-05 PR3-01 P-02 /052 W

77. ALL WORKERS ARE ENTITLED TO 30 DAYS' PAID VACATION. THOSE IN THE PRIVATE SECTOR HAVE TO WORK A MINIMUM OF 250 DAYS EXCLUDING 30 DAYS SICK LEAVE OR FORFEIT THEIR VACATION. THIS REGULATION DOES NOT APPLY TO THE PUBLIC SECTOR. THE MINIMUM WAGE WAS INCREASED REGULARLY BY THE GOVERNMENT, BUT IT STILL LAGGED BEHIND INFLATION. AT ABOUT US\$DOLLAR 60 PER MONTH AT THE OFFICIAL EXCHANGE RATE AND US\$DOLLAR 40 AT THE PARALLEL MARKET, THE MINIMUM WAGE WAS NOT SUFFICIENT TO PROVIDE A DECENT STANDARD OF LIVING FOR A WORKER AND FAMILY. HOWEVER, MANY PERUVIANS WERE PAID MORE THAN THE MINIMUM WAGE AND MANY OTHERS SUPPLEMENTED THEIR INCOME THROUGH MULTIPLE JOBS AND/OR SUBSISTENCE FARMING.

R 032144Z OCT 89  
 FM AMEMBASSY LIMA  
 TO SECSTATE WASHDC PRIORITY 2268  
 A//DEPT OF LABOR WASHDC

LIMITED OFFICIAL USE SECTION 16 OF 16 LIMA 14862

DOL PASS ILAB/OFRT. LINSENMAYER

E.O. 12356: N/A  
 TAGS: PHUM, PE  
 SUBJECT: DRAFT PERU COUNTRY REPORT ON HUMAN RIGHTS

78. END DRAFT TEXT.

DION

THE CONSTITUTION PROHIBITS COMPULSORY LABOR, AND THIS IS RESPECTED IN PRACTICE. IN 1967, THERE WERE A FEW REPORTS OF ESCAPEES FROM FORCED LABOR CAMPS RUN BY SENDERO LUMINOSO IN THE JUNGLE. PEASANTS ARE RECRUITED FORGIBLY TO TEND THE FIELDS AND JOIN THE SENDERO RANGS. THERE HAVE ALSO BEEN REPORTS OF COMPULSORY LABOR IN PLANTATIONS IN REMOTE AREAS OF THE COUNTRY. IN REMOTE AREAS THERE IS USUALLY NO ENFORCEMENT OF ANY LAW DUE TO THE LACK OF AN OFFICIAL GOVERNMENT PRESENCE.

75.  
 D. MINIMUM AGE FOR EMPLOYMENT OF CHILDREN

THE LAW PROHIBITS THE EMPLOYMENT OF CHILDREN UNDER 14 YEARS OF AGE. IN THE FORMAL SECTOR OF THE ECONOMY, THE LAW ALLOWS FOR THE EMPLOYMENT OF OLDER CHILDREN IN SOME JOBS, FOR A LIMITED PERIOD OF TIME AND WORKING A CURTAILED WORKWEEK AT FULL PAY. ACCORDING TO A 1987 PERUVIAN SENATE REPORT, HOWEVER, 1.1 MILLION CHILDREN SIX TO 14 YEARS OF AGE WORK. UNOFFICIAL SOURCES ESTIMATE THAT ABOUT HALF A MILLION CHILDREN WORK IN THE LIMA AREA ALONE. A JUNE 1 89 SURVEY OF 133 WORKING CHILDREN BY THE AGRARIAN UNIVERSITY IN LIMA SHOWED THAT 78 PERCENT OF THEM WERE BETWEEN 10 AND 12 YEARS OLD. SOME 40 PERCENT SOLD ASSORTED MERCHANDISE AND 53 PERCENT WENT TO SCHOOL ONLY OCCASIONALLY OR NOT AT ALL. A THIRD WORKED SEVEN DAYS A WEEK, AND 57 PERCENT OF THE TOTAL WORKED BETWEEN TWO AND FIVE DAYS A WEEK.

76.  
 E. ACCEPTABLE CONDITIONS OF WORK

WORKERS HAVE AN 8-HOUR DAY AND AN OFFICIAL 48-HOUR WEEK FOR MEN, AND 45 FOR WOMEN. RETIREMENT AGE IS 60 FOR MEN AND 55 FOR WOMEN. THERE ARE GOVERNMENT STANDARDS FOR HEALTH AND SAFETY BY INDUSTRY, BUT THESE ARE RARELY ENFORCED EITHER BY THE EMPLOYER OR THE GOVERNMENT (WHICH HAS NO INSPECTORS). IN NEGOTIATING NEW CONTRACTS, PUBLIC AND PRIVATE SECTOR WORKERS CAN BARGAIN FOR ADDITIONAL PAY BECAUSE OF HAZARDOUS WORKING CONDITIONS. MANY EMPLOYERS WAIT