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TO SECSTATE WASHDC PRIORITY 1516

C O N F I D E N T I A L SECTION 01 OF 03

E.O. 12356: DECL: OADR
TAGS: SHM, PE
SUBJ: REPORT ON HUMAN RIGHTS PRACTICES IN PERU 1 1983

REF: STATE 261750 N

1. CONFIDENTIAL-ENTIRE TEXT.
2. INTRODUCTION. PRESIDENT FERNANDO BELANDE TOOK OFFICE IN JULY 1980, FOLLOWING FREE AND OPEN ELECTIONS HELD IN AMY IN ACCORDANCE WITH THE TERMS OF A CONSTITUTION WRITTEN BY AN ELECTED CONSTITUENT ASSEMBLY IN 1979. THE NEW PERUVIAN CONSTITUTION ESTABLISHES A DEMOCRATIC REPUBLIC WITH AN EXECUTIVE BRANCH, A BICAMERAL LEGISLATURE AND AN AUTONOMOUS JUDICIAL SYSTEM. IT ALSO PROVIDES FOR AN INDEPENDENT PUBLIC MINISTRY, HEADED BY AN AUTONOMOUS ATTORNEY GENERAL WITH BOTH PROSECUTORIAL AND OMBUDSMAN ROLES.
3. PERU'S RETURN TO DEMOCRACY CAME AFTER MORE THAN A DECADE OF MILITARY RULE THAT BEGAN WITH A COUP IN 1968. THE AUTHORITARIAN MILITARY GOVERNMENTS ATTEMPTED TO IMPOSE SOCIAL CHANGE FROM ABOVE. THE BELANDE GOVERNMENT

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SEEKS TO ELIMINATE VESTIGES OF AUTHORITARIANISM. A MAJOR

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GOAL IS TO STRENGTHEN THE NATIONS'S DEMOCRATIC INSTITUTIONS AND TO GUARANTEE CITIZENS BASIC POLITICAL RIGHTS, LONG DENIED.

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

5. CONCURRENTLY, IN LATE 1982 AND 1983 PERU WAS BESET BY A SHARP INCREASE IN TERRORIST VIOLENCE PERPETRATED BY THE VIOLENT MAOIST SENDERO LUMINOSO (SL) WHICH CREATED STRONG PRESSURES ON THE GOVERNMENT FOR EFFECTIVE COUNTERTERRORIST ACTION. CENTERED IN POVERTY STRICKEN PORTIONS OF MOUNTAIN PROVINCES OF THE CENTRAL SIERRA REGION, TERRORISTS ASSASSINATED AN INCREASING NUMBER OF VILLAGERS AND LOCAL OFFICIALS IN AN EFFORT TO BRING ABOUT A GENERALIZED REVOLUTION. DURING 1983, THE TERRORISTS SPREAD THE SCOPE OF THEIR ACTION TO OTHER AREAS OF THE COUNTRY CREATING A CLIMATE OF FEAR AND INDIGNATION. SENDERO LUMINOSO WAS DENOUNCED BY ALL PARTICIPANTS IN THE PERUVIAN DEMOCRATIC PROCESS, INCLUDING REPRESENTATIVES OF THE MARXIST LEFT.

6. IN LATE 1982 PRESIDENT BELAUNDE RELUCTANTLY ACCEDED TO DEMANDS THAT HE DEAL WITH THE GROWING TERRORIST THREAT BY
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SENDING MILITARY FORCES INTO AN "EMERGENCY ZONE" COMPOSED OF PORTIONS OF THE THREE AFFECTED DEPARTMENTS. IN ACCORDANCE WITH "STATE OF EMERGENCY" PROVISIONS OF THE CONSTITUTION, CERTAIN SPECIFIC GUARANTEES WERE AGAIN SUSPENDED AND REMAINED SUSPENDED THROUGHOUT 1983, WITH MILITARY OFFICERS EXERCISING POLITICAL AUTHORITY IN THE ZONE. . . THE SPREAD OF TERRORIST VIOLENCE TO LIMA IN LATE MAY . . . PROVOKED THE DECLARATION OF A NATIONAL STATE OF EMERGENCY THAT LASTED UNTIL MID-SEPTEMBER WHEN THE GOVERNMENT LIFTED IT TO FACILITATE A NATIONWIDE MUNICIPAL ELECTION

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CAMPAIGN.

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

8. THE DETERIORATING SITUATION IN THE EMERGENCY ZONE WAS PERHAPS BEST EXEMPLIFIED IN THE GOP'S OFFICIAL STATISTICS. FROM THE ONSET OF SIGNIFICANT TERRORIST VIOLENCE IN MAY 1980 UNTIL THE END OF 1982, SOME 166
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PERSONS (INCLUDING 27 POLICE, 71 CIVILIANS, AND 48 TERRORISTS) LOST THEIR LIVES. SPEAKING TO FOREIGN NEWSMEN ON AUGUST 19, INTERIOR MINISTER PERCOVICH PROVIDED AN UPDATED FIGURE OF 1,580 (POLICE LOSSES GIVEN AS 59, CIVILIANS 465, AND TERRORISTS 1,033). ALMOST ALL THESE DEATHS OCCURRED IN THE EMERGENCY ZONE.

9
THE INCREASING DEATH TOLL WAS ACCOMPANIED BY REPORTS IN LIMA'S OPPOSITION PRESS, ECHOED BY SOME POLITICAL LEADERS AND COMMENTATORS, CONCERNING "DISAPPEARANCES" AND OTHER ABUSES ALLEGEDLY COMMITTED BY THE SECURITY... .. FORCES. HIGH MILITARY AND GOVERNMENT OFFICIALS UNIFORMLY AND CATEGORICALLY REJECTED THESE ACCUSATIONS. ALTHOUGH... .. SOME GOVERNMENT FIGURES ACKNOWLEDGED THE POSSIBILITY THAT ABUSES WERE COMMITTED BY INDIVIDUAL SECURITY FORCE

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PERSONNEL ACTING WITHOUT OFFICIAL SANCTION. IN SIMILAR FASHION, THE GOP AND SOME MEDIA REJECTED A SPECIFIC GROUP OF CHARGES MADE BY AMNESTY INTERNATIONAL IN AUGUST AND CITED SPECIFIC FACTUAL ERRORS IN AMNESTY'S REPORT.

10. THE HUMAN RIGHTS CASUE, ONE OF THE LAUDABLE ACHIEVEMENTS OF THE NEW DEMOCRATIC GOVERNMENT, WAS NOT ADVANCED IN PERU IN 1983. ALTHOUGH VERIFIABLE FACTS ARE EXTREMELY HARD TO COME BY, IT APAARS LIKELY THAT IN THE COURSE OF THE STRUGGLE AGAINST A PARTICULARLY VIOLENT TERRORIST THREAT, SOME VIOLATIONS OF HUMAN RIGHTS TOOK PLACE. THE BELAUNDE ADMINISTRATION HAS MADE CLEAR, HOWEVER, THAT IT DOES NOT CONDONE THESE VIOLATIONS AND, THERE ARE RECENT (SEPT.) REPORTS THAT FIELD COMMANDERS WERE ORDERED TO EXERCISE GREATER CARE IN SEEING TO IT THAT SUCH VIOLATIONS DO NOT TAKE PLACE.

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11. SECTION ONE. RESPECT FOR THE INTEGRITY OF THE

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PERSON, INCLUDING:

A. FREEDOM FROM UNLAWFUL OR ARBITRARY DEPRIVATION OF LIFE. THE TERRORIST VIOLENCE THAT BEGAN IN PERU IN MAY 1980 ACCELERATED IN 1983. LOSSES AMONG THE TERRORISTS THEMSELVES INCREASED AS SECURITY FORCES TOOK COUNTER-MEASURES.

12. ALTHOUGH SENDERO'S INITIAL VIOLENCE WAS SELECTIVE, ITS TARGETS BEING POLICE, GOVERNMENT AUTHORITIES, AND "EXPLOITATIVE" MERCHANTS AND LANDLORDS, 1983 WITNESSED A GENERALIZATION OF VIOLENCE AND A CORRESPONDINGLY HIGHER CIVILIAN DEATH TOLL. THE WORST INCIDENT OCCURED IN EARLY APRIL IN THE EMERGENCY ZONE, WHEN A SENDERO-LED BAND NUMBERING SOME 200 PERSONS ATTACKED AND MASSACRED VILLAGERS IN THE ANDEAN COMMUNITY OF LUCANAMARCA. THE 67 PEOPLE WHO DIED THERE NEARLY DOUBLED THE CIVILIAN DEATH FIGURE OVER THE PRECEDING THREE YEARS. A JULY 11 ATTACK IN LIMA WAS MUCH LESS BLOODY (THREE DEAD), BUT MARKED YET ANOTHER FRIGHTENING INCREMENT OF VIOLENCE. IN THIS INCIDENT, TERRORISTS ENTERED THE DOWNTOWN HEAD-QUARTERS OF THE GOVERNING ACCION POPULAR PARTY AND, UNDER COVER OF A TEMPORARY BLACKOUT THEY INDUCED BY DYNAMITING ELECTRICAL TRANSMISSION TOWERS, PROCEEDED IN RANDOM MANNER TO GUN DOWN THOSE PRESENT. THE INCIDENT WAS

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PART OF A LARGER PLAN TO DISRUPT LIMA WHICH WAS NOT SUCCESSFUL.

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13. THE AUTHORITIES' RESPONSE TO THIS TERRORIST ESCALADE PRODUCED BOTH HIGHER LOSSES IN SENDERO'S RANKS AND GENERATED CONTROVERSY. THE BULK OF THOSE TERMED TERRORISTS WERE KILLED IN WHAT THE SECURITY FORCES CALLED "ARMED CONFRONTATIONS" IN THE EMERGENCY ZONE. BUT AN AUGUST REPORT BY AMNESTY INTERNATIONAL DISPUTED THIS VERSION AND ASSERTED THAT MANY OF THE DEAD WERE PERSONS "EXTRAJUDICIALLY KILLED" SUBSEQUENT TO THEIR CAPTURE AND INTERROGATION. AMNESTY BASED ITS ALLEGATIONS INPART ON COMMUNICATIONS SENT DIRECT TO IT BY MARXIST POLITICIANS AND CLIPPINGS FROM MARXIST NEWSPAPERS AND OTHER OPPOSITION SOURCES AND INPART, ON THE PERUVIAN AUTHORITIES' OWN STATISTICAL DATA. COMMUNIQUESS ISSUED IN APRIL AND MAY BY THE EMERGENCY ZONE POLITICAL MILITARY COMMAND REFERRED REPETITELY TO DEATHS SUFFERED BY SENDERO IN "ARMED ENCOUNTERS" BUT MADE NO MENTION OF EITHER TERRORISTS INJURED OR CAPTURED OR, FOR THAT MATTER, SECURITY FORCE LOSSES. THIS IS INTERPRETED AS ILLUSTRATING AMNESTY'S POINT.

14. THE AMNESTY REPORT ALSO REFERRED TO EXTRAJUDICIAL KILLINGS CARRIED OUT " BY OR WITH THE ACQUIESENCE OF GOVERNMENT AUTHORITIES." THE POINT OF DEPARTURE FOR THIS DISCUSSION WAS THE DEATH, IN LATE JANUARY, OF EIGHT PERUVIAN JOURNALISTS IN THE ISOLATED ANDEAN COMMUNITY OF UCHURACCAY. A SPECIAL INVESTIGATING COMMISSION, APPAPOINTED BY THE PERUVIAN GOVERNMENT AND HEADED BY NOTED PERUVIAN AUTHOR MARIO VARGAS LLOSA, DETERMINED THAT THE EIGHT DIED AT THE HANDS OF LOCAL VILLAGERS WHO, ACTING UNDER THE CONVCION THAT THE
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POLICE ENCOURAGED THEIR DOING SO, RESOLVED BEFORE HAND TO KILL (PRESUMED TERRORISTS ENTERING THEIR COMMUNITIES. THE VARGAS LLOSA COMMISSION STATED THEIR ABSOLUTE CONVICTION THAT SECURITY AUTHORITIES DID NOT ENCOURAGE SUCH VIGILANTE TYPE ACTIONS ON A SYSTEMATIC BASIS, BUT THAT IN ISOLATED CASES THEY SUPPORTED SUCH ACTIONS.

15. THE EXTENT TO WHICH SECURITY FORCES ENCOURAGE ISOLATED VILLAGERS TO TAKE THE LAW INTO THEIR OWN HANDS APPEARS FAR LESS SIGNIFICANT THAN THE FACT

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THAT THERE IS ONLY LIMITED GOVERNMENT CONTROL IN THE ZONE. IN THE ABSENCE OF ENFORCED LAW AND ORDER, SELF-RESTRAINT MAY BE A VIRTUE THAT SOME EMERGENCY ZONE VILLAGERS MENACED BY THE THREAT OF TERRORIST VIOLENCE BELIEVE THEY CANNOT AFFORD.

16. B. FREEDOM FROM DISAPPEARANCE. A COMBINATION OF CIRCUMSTANCES CONVERTED THE QUESTION OF DISAPPEARED PERSONS ("DESAPARECIDOS") INTO A MAJOR POLITICAL ISSUE IN AUGUST-SEPTEMBER. UNTIL THEN, CHARGES THAT SECURITY FORCES WERE RESPONSIBLE FOR THE DISAPPEARANCE AND DEATH IN THE EMERGENCY ZONE OF PERSONS PRESUMED TO BE TERRORISTS CAME SOLELY FROM CERTAIN POLITICAL AND PRESS FIGURES ON THE MARXIST LEFT. AMNESTY'S AUGUST REPORT FOCUSED PUBLIC ATTENTION ON THE ISSUE, HOWEVER, AND LISTED SEVERAL CASES OF PRISONERS DESCRIBED AS "DISAPPEARED AND SUBSEQUENTLY FOUND DEAD." ALAN GARCIA, SECRETARY GENERAL OF PERU'S LEADING OPPOSITION PARTY (APRA), PAID A CAMPAIGN VISIT TO THE ZONE ON AUGUST 27 AND SUBSEQUENTLY ANNOUNCED THAT HE HAD BEEN PRESENTED THERE WITH A LIST OF SEVERAL HUNDRED SUPPOSED "DESAPARECIDO". TWO WEEKS LATER, LIMA'S LEADING TELEVISION-DOCUMENTARY PROGRAM "VISION" BROADCAST A REPORT ON THE SUBJECT CITING A LESSER FIGURE. THE PRESIDENT OF LIMA'S BAR ASSOCIATION ALSO EXPRESSED

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CONCERN ABOUT REPORTS OF DISAPPEARED PERSONS FOLLOWING A VISIT TO THE ZONE. GOVERNMENT OFFICIALS VEHEMENTLY DENIED THAT SECURITY FORCES WERE RESPONSIBLE FOR DISAPPEARANCES AND ASSERTED THAT SENDERO TERRORISTS CUSTOMARILY KILLED PERSONS THEY CARRIED OFF. SOME GOVERNMENT SPOKESMEN HELD THAT PERSONS WHO DISAPPEARED WERE SENDERO RECRUITS WHO, IF THEY TURNED UP DEAD, DIED IN CONFRONTATIONS WITH THE POLICE OR MILITARY. LIMA NEWS WEEKLY "CARETAS" UNCOVERED ONE PERSON ON AMNESTY'S LIST WHO WAS ALIVE.

17. DESPITE THE DIFFERENT CHARGES AND EXPLANATIONS, LITTLE IS YET KNOWN OF THE FATE OF MOST OF THOSE PERSONS NOW UNACCOUNTED FOR AND ALLEGED TO HAVE BEEN DETAINED BY THE SECURITY FORCES. (SEE DISCUSSION BELOW UNDER "D"). WE BELIEVE IT LIKELY THAT MOST OF THOSE

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NOW MISSING. WILL EVENTUALLY BE ACCOUNTED FOR.

18. C. FREEDOM FROM TORTURE AND CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT. AS A MATTER OF POLICY AND LAW, PERU PROHIBITS TORTURE AND THE USE OF VIOLENCE AGAINST DETAINEES AND MAKES EVEN THE THREAT OR COERCION A CRIMINAL OFFENSE, PUNISHABLE BY LAW. NEVERTHELESS, THERE WERE INCREASED INSTANCES OF ALLEGED MISTREATMENT OF PRISONERS ACCUSED OF TERRORIST CRIMES IN 1983. THE BULK OF REPORTED COMPLAINTS ORIGINATED IN THE EMERGENCY ZONE. ALTHOUGH MOST HAD TO DO WITH CHARGES OF PHYSICAL MISTREATMENT ("THIRD DEGREE" TYPE TACTICS) SOME ALLEGATIONS APPEARING IN ANTIGOVERNMENT MEDIA SPOKE OF ELECTRICAL SHOCK AND IMMERSION IN COLD WATER. THE SITE MOST FREQUENTLY ASSOCIATED WITH SUCH CHARGES WAS THE LOS CABITOS BARRACKS IN AYACHCHO, THE COMMAND

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POST FOR POLITICAL MILITARY AUTHORITIES IN THE ZONE. AVAILABLE EVIDENCE SUGGESTS THAT ZONE SECURITY FORCES, WHO ROUTINELY EMPLOY SEVERE METHODS OF INTERROGATION, DO NOT AS A MATTER OF POLICY ENGAGE IN TORTURE OR OTHER WISE EXACT RETRIBUTION ON DETAINED SUSPECTS.

19 INCIDENTS OF ABUSE OCCURRING WITHOUT OFFICIAL SANCTION, HOWEVER, ARE BELIEVED TO OCCUR. THE VARGAS

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LLOSA COMMISSION FELT "OBLIGED" TO POINT OUT THAT SECURITY FORCES HAD COMMITTED "EXCESSES", AND "CARETAS" REBUTTAL OF CERTAIN AMNESTY ALLEGATIONS ALSO INCLUDED CORROBORATION OF CHARGES OF OCCASIONAL PRISONER MISTREATMENT. DESPITE OFFICIAL POLICY TO RESPECT HUMAN RIGHTS, SECURITY FORCE COMPORTMENT MAY REMAIN SUSPECT SO LONG AS STATE OF EMERGENCY PROVISIONS LEAVE CONSTITUTIONAL GUARANTEES SUSPENDED AND THE ROLE OF AUTONOMOUS PUBLIC MINISTRY REPRESENTATIVES CURTAILED.

20. ELSEWHERE, IN PERU, THOSE SUSPECTED OF COMMON CRIMES FACE LONG PERIODS OF DETENTION IN DEGRADING CONDITIONS, WHILE THEIR CASES REMAIN UNDER INVESTIGATION. THE 1983 FOOD BUDGET AT THE 6,000 PRISONER LURIGANCHO PRISON FOR COMMON CRIMINALS ALLOWED SOME 40 CENTS (U.S.) DAILY TO FEED EACH PRISONER. PERU'S CUMBERSOME JUDICIAL SYSTEM ASSURES PROLONGED DELAYS FOR PRISONERS FACING TRIAL. OF SOME 700 PERSONS INDICTED FOR TERRORISM BETWEEN MID-1980 AND MID-1983, ONLY 13 WERE FOUND GUILTY AND SENTENCED, WITH 18 ABSOLVED AND SET FREE, AT THE END OF THAT PERIOD.

21. D. FREEDOM FROM ARBITRARY ARREST, DETENTION, OR EXILE. PERU'S 1979 CONSTITUTION REQUIRES THAT AN ARRESTEE
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BE ARRAIGNED WITHIN 24 HOURS FOR ALL CRIMES EXCEPT TRAFFICKING, TERRORISM, OR ESPIONAGE, FOR WHICH THE

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LIMIT IS 15 DAYS. ADMINISTRATIVE DIFFICULTIES SOMETIMES PRECLUDE THE 24-HOUR DEADLINE FROM BEING MET, BUT ARRAIGNMENT OCCURS IN A TIMELY MANNER. THE 15-DAY LIMIT IS ALMOST INVARIABLY RESPECTED.

21. THE ABOVE DESCRIPTION MAY NOT APPLY UNIFORMLY, HOWEVER, TO THE ARREST AND PROCESSING OF TERRORISM SUSPECTS IN THE EMERGENCY ZONE. AMNESTY'S REPORT REFERRED TO SEVERAL CASES OF PERSONS WHO IT ALLEGED HAD "DISAPPEARED" AND SUBSEQUENTLY WERE ACKNOWLEDGED TO BE IN MILITARY CUSTODY. OF THESE, THE MOST PROMINENT WAS THAT OF DR. JAIME URRUTIA, AN ANTHROPOLOGY PROFESSOR AT THE UNIVERSITY OF HUAMANGA IN AYACUCHO AND VICE PRESIDENT OF THE AYACUCHO BRANCH OF THE NATIONAL COMMISSION FOR HUMAN RIGHTS, WHO WAS TAKEN FROM HIS HOME AT NIGHT BY MASKED MEN. ALTHOUGH SECURITY FORCES INITIALLY DENIED RESPONSIBILITY FOR DR. URRUTIA'S DISAPPEARANCE (AND SUGGESTED HE WAS THE VICTIM OF A KIDNAPPING), LATER DEVELOPMENTS REVEALED HE WAS BEING HELD INCOMMUNICADO IN LOS CABITOS. SUBSEQUENT TO HIS TRANSFER TO POLICE AUTHORITIES, HE WAS RELEASED (16 DAYS AFTER HIS DETENTION) WHEN THE PUBLIC PROSECUTOR REJECTED CHARGES OF SUBVERSION BROUGHT AGAINST HIM.

23. OFFICIAL GOVERNMENT STATISTICS, WHICH ARE NOT ALWAYS WELL COMPLIED, REFERRED TO FLUCTUATING NUMBERS OF "DETAINEES" (SOME 2,400 IN EARLY MAY, 2,630 IN MID-JULY, 2,120 IN MID-AUGUST). BUT THE NUMBERS OF PERSONS FORMALLY CHARGED WITH TERRORISM, AND ACCORDINGLY INCORPORATED INTO JUDICIAL SYSTEM STATISTICS, WERE SUBSTANTIALLY LOWER (658 IN MID-JUNE, SOME 900 IN
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JULY). PRESUMABLY MANY RELEASES WENT UNRECORDED, BUT IT IS ALSO POSSIBLE THAT, AS IN THE CASE OF DR. URRUTIA, SOME PERSONS REPORTED AS "DISAPPEARED" IN THE EMERGENCY ZONE REMAIN IN THE CUSTODY OF SECURITY FORCES.

24. E. FREEDOM FROM DENIAL OF FAIR PUBLIC TRIAL. THE PERUVIAN JUDICIARY IS INDEPENDENT OF THE EXECUTIVE IN BOTH LAW AND PRACTICE. THE NATIONAL COUNCIL OF THE MAGISTRACY, UNDER THE ATTORNEY GENERAL, SELECTS NOMINEES FOR JUDICIAL VACANCIES, APPOINTMENTS ARE FOR LIFE. ONLY SUPREME COURT JUSTICES REQUIRE LEGISLATIVE

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CONFIRMATION. CHARGES OF LOWER COURT MALFEASANCE ARE INVESTIGATED BY THE SUPREME COURT, WHILE THE NATIONAL COUNCIL OF THE MAGISTRACY INVESTIGATES ANY COMPLAINTS AGAINST THE SUPREME COURT ITSELF, AND TURNS THEM OVER TO THE ATTORNEY GENERAL IF THERE ARE GROUNDS FOR CHARGES. THE SUPREME COURT ITSELF HAS RESPONSIBILITY FOR FINAL ACTION.

25. ALL CIVIL CRIMES ARE TRIED IN CIVILIAN COURTS. ARRESTEES ARE ENTITLED TO HAVE AN ATTORNEY PRESENT WHEN THEY MAKE STATEMENTS TO THE POLICE. PUBLIC PROSECUTORS ARE CHARGED WITH ASSURING THAT DEFENDANTS HAVE LEGAL REPRESENTATION. THERE ARE NO PUBLIC DEFENDERS BELOW THE SUPERIOR COURT LEVEL, HOWEVER, AND INDIGENT ARRESTEES MUST RELY ON VOLUNTEERS FROM THE BAR ASSOCIATION, IF AVAILABLE. THE CONSTITUTION PRESUMES INNOCENCE, AND GUARANTEES A TRIAL REVIEW SYSTEM. THE FIRST IS A CLOSED JUDICIAL INVESTIGATION BY A MAGISTRATE, WHILE THE SECOND IS PUBLIC TRIAL IN SUPERIOR COURT FOR THOSE HELD FOR PROBABLE CAUSE AT THE LOWER LEVELS. THE SUPREME COURT HEARS FINAL APPEALS.

26. ALL THESE GUARANTEES ARE FORMALLY RESPECTED. FAIRNESS, HOWEVER, CAN BE COMPROMISED BY LONG INVESTIGATIVE
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DELAYS. THE MOST NOTABLE EXAMPLE OF THIS IN 1983 WAS THE HANDLING OF THE UCHURACCAY MASSACRE. ALTHOUGH INITIAL PUBLIC CLAMOR WAS SATISFIED BY THE NAMING OF THE VARGAS LLOSA COMMISSION AND THE SUBSEQUENT, SWIFT COMPLETION OF ITS REPORT, THE JUDICIAL PROCEEDING IT WAS MEANT TO COMPLEMENT HAD NOT, SOME EIGHT MONTHS LATER, EITHER TERMINATED OR LED TO THE ARREST OF SUSPECTS.

27. THE GOVERNMENT OF PERU IS SENSITIVE TO ANY SUGGESTION THAT PERSONS DETAINED OR SENTENCED ON CHARGES OF TERRORISM ARE "POLITICAL PRISONERS". AVAILABLE EVIDENCE SUGGESTS THAT THE BULK OF THOSE ACCUSED (SEE D) EITHER DID PARTICIPATE IN ACTS OF VIOLENCE OR, IF THEY DID NOT, WON THEIR FREEDOM ONCE INITIAL OR JUDICIAL INVESTIGATIONS HAD UNVEILED THEIR INNOCENCE.

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28. F. FREEDOM FROM ARBITRARY INTERFERENCE WITH PRIVACY FAMILY, HOME, OR CORRESPONDENCE. A JUDICIAL WARRANT IS REQUIRED TO ENTER A PRIVATE RESIDENCE, THE INVIOABILITY OF WHICH IS CONSTITUTIONALLY GUARANTEED. STATE AUTHORITIES DO NOT INTERFERE WITH OR REGULATE THE RIGHT OF INDIVIDUALS TO JOIN POLITICAL OR RELIGIOUS ORGANIZATIONS. NO EVIDENCE IS AVAILABLE TO INDICATE THAT AUTHORITIES ENGAGE IN GENERALIZED MONITORING OF CORRESPONDENCE OR TELEPHONES, OR THAT THEY ATTEMPT TO JAM RADIO BROADCASTS OR PROHIBIT THE RECEIPT OF FOREIGN PUBLICATIONS. THE GOVERNMENT PERMITS AND ENCOURAGES, TO THE EXTENT RESOURCES PERMIT, THE SCIENTIFIC STUDY AND PROMOTION OF INDIGENOUS LANGUAGES.

29. THE CONSTITUTION'S STATE OF EMERGENCY PROVISION
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SUSPENDS THE GUARANTEE ASSURING INVIOABILITY OF HOMES. SECURITY AUTHORITIES IN THE EMERGENCY ZONE ROUTINELY AVAIL THEMSELVES OF THIS SUSPENSION TO CONDUCT SEARCH OPERATIONS. ELSEWHERE IN THE COUNTRY, DURING THE LIMITED PERIOD IN WHICH A NATIONAL STATE OF EMERGENCY PREVAILED, POLICE EXERCISED THIS AUTHORITY SPARINGLY.

30. REMAINING PORTION OF DRAFT HUMAN RIGHTS REPORT TO BE TRANSMITTED TUESDAY, OCTOBER 11.
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