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**COUNTRY REPORTS ON HUMAN RIGHTS
PRACTICES FOR 1990**

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AND THE

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HOUSE OF REPRESENTATIVES**

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Since 1980 Peru has had a freely elected democratic government, composed of an executive branch headed by a president, a bicameral legislature, and a separate and independent judiciary. After two rounds of intensely contested national elections in April and June, Alberto Fujimori, a former university president, was inaugurated on July 28, succeeding Alan Garcia Perez of the American Popular Revolutionary Alliance (APRA) as President.

Public security responsibilities are shared by the police and the military. The Interior Ministry and its police services have the primary counterterrorist role in the capital city of Lima and in the 95 provinces not under a state of emergency. The military leads the effort to combat subversion in the 88 provinces, which are currently under a state of emergency. A state of emergency designation places all executive branch authority in the local military command, suspends restrictions on arbitrary detention and the requirement for search warrants, and restricts the rights of movement and assembly. The number of provinces declared in emergency for at least part of the year has risen by seven since 1989, the ninth straight annual increase. The state of emergency was lifted in Ayacucho's capital province in October for the first time since it was declared in 1981. An estimated 25 percent of Peru's population of 22 million lived under a state of emergency during all of 1990. Another 35 percent, those living in the capital, spent approximately half the year under police-directed, military-supported states of emergency. The police and the military in the emergency zones are under the authority of the emergency zone commander, not civilian authorities. The constitutional rights of persons detained by the military are routinely ignored.

The Garcia administration left behind a mixed economy in deep depression, ravaged by four-digit inflation, and devoid of foreign exchange reserves. On August 8, President Fujimori's Government announced a severe stabilization program designed to close the fiscal deficit within a few months. Although the program has reduced inflation, the cost was an even deeper recession, further exacerbating the difficult economic situation of the lower and middle classes.

The chief causes of human rights violations in Peru remain the terrorist activities of the Sendero Luminoso (Shining Path) Maoist guerrillas and, secondarily, the Government's difficulty in mounting a disciplined response. Security forces personnel were responsible for widespread and egregious human rights violations. It is estimated that at least 3,452 persons (civilians and military) were killed in terrorist-related violence in 1990, an increase of over 8 percent from the previous year and 75 percent higher than the 1988 total. Sendero regularly assassinates anyone perceived to be an opponent, or even merely uncooperative, including ordinary citizens, typically Indian residents of the Andean highlands or the Amazonian jungle. Sendero and the pro-Cuban terrorist group Tupac Andru Revolutionary Movement (MRTA) both increased their control over parts of Peru's major coca-growing region, the Upper Huallaga Valley (UHV). Peruvian human rights observers have determined that Sendero is responsible for the majority of the killings in the UHV. Human rights abuses by government security forces also increased in 1990, although independent investigations remained difficult to

carry out due to fears of possible Sendero reprisals and because military commanders restrict access to emergency zones. There were widespread credible reports of summary executions, arbitrary detentions, and torture and rape by the military, as well as less frequent reports of such abuses by the police. Independent human rights groups recorded 302 new cases of disappearances during 1990, a marked decline from 1989's record total.

The Fujimori Government announced its intention to institute a number of reforms aimed at improving the nation's grave human rights situation by establishing a national human rights commission, revamping the criminal code, and overhauling the penal system. President Fujimori himself made impassioned pleas for the autonomous judiciary to reform itself. Mostly due to the overwhelming economic crisis facing the nation, however, the new Government was unable to effect any of these fundamental changes during the first months of its 5-year term.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

For at least the fourth straight year, political and other extrajudicial killings rose again in 1990. Sendero Luminoso continued to assassinate teachers, engineers, development and human rights workers, Indian peasants, and political candidates, as well as government, police, and ruling party officials. Due to the isolation of many rural areas where Sendero is most active, the number of victims is underreported. The Senate Commission on Pacification and Violence estimated that Sendero was responsible for a total of 1,512 deaths, including 183 police/military deaths, in 1990; security forces for 1,318; the MRTA for 68; the paramilitary Rodrigo Franco Command (CRF), tied to elements of the APRA party, for 3; campesino organizations (rondas campesinas) for 259 deaths; and narcotics traffickers for 106. Peruvian human rights groups, which maintain their own sources of information, independently confirm the general trends reported by the Senate Commission.

Sendero often massacred Indian villagers, accusing them of supporting the Government because of the presence of local peasant civilian self-defense forces ("rondas campesinas") in their communities. In Acosvinchos, Ayacucho on January 15 a Sendero-led column of approximately 200 convoked the villagers of San Lucas and Vinchos-Pata to a "popular assembly" and accused them of aiding the rondas. Thirty-nine villagers, ranging in age from 1 year to 70 years, were executed; 29 others were wounded. Sendero killed at least 37 peasants, including women, children, and the elderly, in the Indian community of Naylamp de Sonomoxro on April 12, and another 46 peasants in Dos de Mayo province between June 26 and 28.

Sendero often attacked those seen as defending the existing legal or social order. In a major effort to disrupt the nation's April and June presidential elections, Sendero expanded its attacks on government and political party officials, including opposition officeholders and candidates for public office. Independent candidate for deputy in the legislature, Panamerican television reporter Marino Meza Rosales, and four of his supporters were kidnapped by Sendero

terrorists March 12 in Huanuco. Meza Rosales was burned alive. More than 200 local elected or appointed office-holders were assassinated during 1989 and 1990. Sendero executed former Social Security Director Felipe Salaverry in Lima on April 17 and assassinated former APRA Senator and Labor Minister Orestes Rodriguez Campos and his son on September 22. Sendero shot and killed Congressman Alejandro Victoria Mendoza of the Cambio 90 party in Lima on December 16. Javier Puiggros, noted PPC party leader, was shot and killed by Sendero on November 23. Sendero also waged a violent campaign against union organizers. Many union leaders reported receiving threats from Sendero, and at least six union directors of industrial relations were assassinated by Sendero in Lima during 1990.

Foreign national origin is now considered by Sendero a sufficient reason to kill. Two French tourists were assassinated by Sendero after their interprovincial bus was intercepted by a Sendero column in Apurimac Department on January 13. After the assembled passengers were forced to listen to a lengthy political lecture, the two foreigners were singled out and publicly executed. Employing a common initiation rite, the Sendero leader required the youngest recruits present--in this case, estimated at 10 to 14 years of age--to perform the executions. Two tourists from Australia and New Zealand were murdered in Ayacucho in May; Sendero was believed to have been responsible.

A second terrorist group, the MRTA, continued to expand beyond its original base of operations in Lima into several rural zones. Although the MRTA chiefly engages in the destruction of property through selective bombing, MRTA attacks killed at least 68 people in 1990. The MRTA claimed responsibility for the January 9 Lima assassination of Major General (Ret.) Enrique Lopez Aibujar Trent, former Defense Minister in the Garcia government. The MRTA allegedly kidnaped Congressman Gerardo Lopez of the Cambio 90 party on September 23. Judge Cesar Ruiz Trigozo was assassinated by the MRTA in Lima on November 16. Both Sendero and the MRTA were also responsible for kidnaping, torturing, and executing the leadership of a number of Indian tribes, including the Ashaninka, Yanashe, and Campa.

A third terrorist group, the Rodrigo Franco Command (CRF), suspected of being controlled by elements of the APRA party, carried out a campaign of intimidation, punctuated by occasional bombings and selective assassinations. The CRF name is probably sometimes used as "cover" by elements of the military operating in the emergency zones, especially in Ayacucho. Among those targeted by CRF in 1990 were journalists, human rights workers, labor union members, lawyers, leftist politicians, and others the CRF accused of working to advance revolutionary terrorism. CRF activities appear to have decreased in Lima during 1990; the decline was especially notable after the APRA's departure from power in late July.

While many rondas units actively worked in a variety of legitimate fields, including community development and self-defense, there were also credible reports that some rondas committed serious human rights abuses, including the torture and extrajudicial execution of terrorist suspects or even of ronda members of rival communities. Rondas of nearby villages are blamed for the May 18 sacking of the village of Pampacores, Huanta, Ayacucho and for the deaths of 15

villagers. Those killed were accused of having ties to Sendero. One of the most graphic cases of rondas abuse occurred after a March battle between rondas and Sendero in Huancayo. The rondas captured nine guerrillas alive, decapitated them, and, as a sign of the rondas' capabilities and allegiance, sent the heads in burlap bags to local military authorities.

There were several notable cases of probable military killings in 1990. Most such incidents occurred in the emergency zones, but an army patrol is believed to have been responsible for the killing of 14 peasants in two villages in Cuzco Department on April 23 and 24. The army column detained some 30 residents of Tirani and Nanrapata; they were publicly stripped and some were tortured or raped. The military is also believed to have been responsible for the execution of 10 women and 7 men whose bodies were found in a common grave in Chilcahuaycco, Ayacucho on October 19. All 17 appeared to have been killed by a bullet to the head. Army Sergeant Jhonny Zapata Acuna (known as "Centurion") was arrested by military authorities and charged in civilian courts with directing the massacre. Unknown assailants kidnaped the Vice-Rector of Huancayo University, Jaime Cerron Palomino, and his driver, Armando Tapia, on June 8. Their tortured bodies were found June 18. Some published reports assert that Cerron and Tapia had been detained by the military. Other reports, however, point to an ongoing strategic battle between Sendero and MRTA for control of the University.

In neither of these cases nor in the majority of other 1990 incidents of alleged human rights violations by military personnel were the results of official executive branch investigations ever made public. Military officials assert that a number of enlisted men and officers were held on charges within the military justice system relating to human rights violations. For the most part, these assertions were difficult to confirm as the military courts have sealed relevant records. Additionally, the military justice code contains no language for dealing with cases of killing, kidnaping, or torture--only "negligence" and "abuse of authority." A number of police personnel were imprisoned during 1990 for a variety of offenses, including the torture and murder of detainees outside of the emergency zones. Five days after their "disappearance," the tortured bodies of university student Zacarias Pasco Humani and Professor Marcelino Valencia Alvaro were exhumed on September 29 from the grounds of the local police station in Santo Tomas, Cuzco Department. Charges were filed against police personnel accused of the murders. In early August, President Fujimori summarily dismissed over 250 high-ranking police officials, some reportedly for links to paramilitary groups or human rights offenses. A number of command changes were also made in the military services. However, there were no similar mass dismissals in the army, the government institution most frequently implicated in human rights abuses.

A series of assassinations of persons involved in human rights or legal work occurred at the University San Cristobal of Huamanga (Ayacucho Department) in mid-July. The circumstances of the killings at or near the university, the birthplace of Sendero, led many human rights groups to blame the military or the CRF. Others refused to rule out Sendero responsibility for at least some of the attacks, however. The decapitated bodies of two young women were found dumped near the University on September 2. The inability of police or private

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human rights groups to ascertain responsibility for these deaths, much less arrest those responsible, is indicative of the Peruvian justice system's inability to produce results in even the most egregious of terrorist cases.

There are no official statistics on the number of summary executions in 1990. Given the overall rise in political deaths, it appears probable that the number of summary executions likewise increased.

Investigations into several earlier cases of military excesses remained blocked and legal avenues to seek redress for gross violations were increasingly inoperative. The inquiry into the May 1988 killings of at least 28 villagers in Cayara, Ayacucho was curtailed after 9 witnesses were killed and the special prosecutor repeatedly threatened. Amnesty International (AI) noted in an April 1990 report that there was "overwhelming evidence to support the accusation that the army deliberately carried out the killings and that both military and civilian authorities had sought to cover up the events. The military authorities in Ayacucho Department systematically obstructed attempts by judicial authorities to investigate the killings, impeded access to the area, and prevented residents from leaving the community."

In June the Appeals Court of the Supreme Council of Military Justice confirmed the December 1989 lower military court convictions of two police officers for their roles in the 1986 killing of 124 inmates at the Lurigancho prison in the aftermath of a failed Sendero uprising. The Appeals Court let stand the sentencing of police Colonel Rolando Cabezas Alarcon to 15 years in prison and increased from 7 to 10 years the sentence to be served by Cabezas' aide, police Lieutenant Javier Marquina Bringas. The Court also overturned the "not guilty" verdicts of eight additional police personnel, sentencing seven of them to 6 months in prison. Police General Martinez Lira was sentenced to 30 days' confinement. Six army officers were acquitted. In September Congress instituted a new investigation into the 1986 prison uprisings. Former President Garcia voluntarily waived his right to immunity.

The presumed number two leader of Sendero Luminoso, Osman Morote Barrionuevo, was sentenced in civil court on November 11 to serve 20 years in prison for his part in a number of Sendero-directed activities, including over a dozen murders. The fact that he was found not guilty on some of the charges against him suggests the court closely weighed the evidence against him on each count. Morote's conviction and sentencing, which came after 2 1/2 years in detention and several aborted trials, was perhaps the most important antiterrorist conviction in Peru's criminal courts since 1980.

b. Disappearance

The Public Ministry (and autonomous Attorney General's office) reports that there have been close to 5,000 cases of disappearances since 1983, with the majority of the formal complaints the security forces. Local human rights groups reported receiving 302 new cases of disappearance in 1990, only 62 of which occurred after the change in government. These numbers are markedly lower than the 404 cases reported by the United Nations Working Group on Disappearances in 1989. In March the Commission on Human Rights (COMISEDH) released summary figures for disappearances during the year

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1989. Of 441 cases in which friends or family formally filed legal complaints of a disappearance, only 135 cases had been resolved. Ninety-three persons were freed from detention, 37 detentions were admitted by the authorities, and 5 persons were found dead.

Most 1990 disappearance cases involved army detention of persons suspected of terrorist links in the emergency zones, but there were cases in Lima as well. The vast majority of disappearances were reported in the violence-torn Departments of Apurimac and Ayacucho. 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 court system after lengthy detentions and are freed for lack of incriminating evidence. Others are imprisoned on terrorism charges. Human rights groups are firmly convinced that the rest are summarily executed by the armed forces. An unknown number of "disappeared" persons are unaccounted for because they joined the ranks of the MRTA or Sendero, either voluntarily or involuntarily. It is believed that the number of persons "disappeared" or forcibly recruited by Sendero is greatly underreported, as Sendero routinely threatens family and survivors with death if they report the incident or otherwise cooperate with government authorities.

Javier Alarcon Guzman, a Director of the General Confederation of Peruvian Workers (COTP) and engineering professor at the National University of Engineering, disappeared on December 15, 1989, while traveling in the emergency zone of the Junin Department. Human rights workers Angel Escobar Jurado and Guadalupe Ccalloccunto Olano both "disappeared" after their separate detentions by presumed military personnel (see Section 4). Ccalloccunto was one of approximately 35 persons who disappeared in the city of Ayacucho during the few days preceding the June 10 elections. Only 3 of the 35 have reappeared--released from military detention. Catholic University student Ernesto Castillo Paez "disappeared" on Lima's Villa El Salvador District on October 21. A number of credible witnesses asserted he was last seen being forced into the trunk of a patrol car from the national police's 74th Comandancia. Despite Congressional hearings and investigations, the police denied any involvement in the case, and Castillo remained unaccounted for at year's end.

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 charge that suspected subversives held by the Government are routinely tortured at military detention centers; lawyers and others familiar with the police and judicial system concur. The Public Ministry noted that the majority of detainees held by military authorities showed signs of mistreatment or torture. In 1990 there were reliable accounts from released detainees of torture or mistreatment both by police and the military. The torture of miner Fidel Intusca Fernandez prompted a Senate investigation after Intusca's September escape from the Lucanas military barracks in Pucallpa, Ayacucho. An unidentified major and four enlisted men were accused in the case. No formal charges, however, were presented against any military personnel. Credible reports of rape by elements of the security forces in the emergency zone were so numerous

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that such abuse can be considered a common practice, condoned--or at least ignored--by the military leadership.

Torture often occurs in the period immediately following detentions. 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. Reliable reports of violations of these standards occur frequently in areas controlled by the military under a state of emergency.

Many victims of Sendero terrorism 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 as a method of intimidation. Sendero uses particularly brutal methods of execution, including slitting throats, strangulation, stoning, and burning. Mutilation of the body is common both before and after death.

Peruvian prison conditions are appalling, bordering on the medieval. Prisoners are exposed to unsanitary facilities, poor nutrition and health care, and ill-treatment by prison staff. More than 65 inmates died in Lima's prisons during 1990 due to severe malnutrition. 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 inmates, to arranging prison escapes. Certain prison cellblocks have fallen under Sendero or MRTA control and guards refuse to venture into them. On July 8, MRTA leader Victor Polay and 48 other accused MRTA terrorists escaped from Canto Grande prison, possibly with official complicity. Shortly after his inauguration later that month, President Fujimori vigorously denounced the penal system as "a clear violation of human rights." President Fujimori made prison reform an important domestic policy issue; by year's end the first 130 of thousands of nonconvicted detainees had been released, pending trial. Revised penal and penal procedures codes were nearly completed. A variety of other reform efforts, though initiated, had not yet been completed by year's end, and for most detainees there were no appreciable improvements.

d. Arbitrary Arrest, Detention, or Exile

The Constitution, the Penal Code, and antiterrorist legislation clearly 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 warrant approved by a Public Ministry prosecutor typically 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 attorney, or the Government must provide counsel at no cost. Arrested persons are entitled to have an attorney present when they make statements to the police. Under the 1987 terrorism law, police must also notify the detainees' family and human rights groups of an arrest, although in practice this is not consistently done. Detention centers do not maintain publicly available registers detailing detentions, charges, transfers, and releases of detainees. There is no functioning bail system; a form of provisional liberty is available, more in

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more than twice that long. There were also widespread charges of corruption and the suborning of judges, police, and witnesses at all stages of the judicial process. There continued to be criticism 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. In announcing the creation of a commission to review the grounds for the continued detention of thousands of prison inmates, President Fujimori estimated in October that barely 4,000 of the nation's 18,000 detainees had ever been convicted of any crime. The first national prison census in at least 4 years was begun in November.

Threats and intimidation of judges handling terrorism cases represent a serious problem, accounting in part for the low conviction rate of accused terrorists. Barely 3 percent of those arrested for such actions are convicted (this figure does not include those held in military facilities inside the emergency zones), a notoriously low rate that leads to police frustration with the judicial process and to public tolerance of police abuses. In 1987 Congress created special tribunals to hear terrorism cases 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, providing the guarantees of safety for the judges required in the enabling legislation, and the large backlog of cases. Overwhelmed by these problems, the special tribunals were abolished in April 1988--only to be reestablished in October 1989.

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 cases involving its personnel, and the Court typically rules in its favor. There were some notable cases of military personnel charged or convicted in civilian courts during 1990 for human rights-related crimes. Army General (now retired) Clemente Noel Moral, former political-military commander for Ayacucho, was among those sentenced in November to serve 2 years in prison for "obstruction of justice" and "abuse of authority," following the 1983 killings of eight Peruvian journalists and their guide in Uchuraccay, Ayacucho. Army Sergeant Johnny Zapata Acuna was charged in civilian court for the October 1990 massacre of 17 persons at Chilcahuaycco, Ayacucho. New cases against police include two cases against those charged in the September torture and murder of two persons in Cuzco Department (see Section 1.a.) and the August 19 robbery and murder of patrons and employees at a Lima nightclub by several police personnel. Ten police officers (of 71 police on trial) were sentenced to prison terms in June 1990 for their roles in the June 1986 Lurigancho prison massacre. None of the six army officers charged was convicted (see Section 1.a.). There never were any trials, however, of security personnel involved in the simultaneous massacres at El Fronton and Santa Barbara prisons.

Military trials may be closed to the public at the discretion of the ruling magistrate, and little is known about specific cases. As AI accurately noted in its April 1990 report, "military courts exercise jurisdiction over police and military personnel but are not known to have punished gross human rights violations by forces on active service in the emergency zones, even in cases of mass killings where investigators have concluded that the armed forces were

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theory than in reality, for persons not accused of terrorism, espionage, or narcotics offenses.

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 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.

Arbitrary arrests and detentions in the emergency zones in 1990 are estimated to be in the hundreds. Incommunicado detention of suspects was a common practice by combatant forces—government and rebel alike—operating in the emergency zones. Dozens of persons of whose detention the Government's security forces had denied knowledge nonetheless later were found to have been held in military detention centers. The armed forces routinely deny access by court officers, public prosecutors, and others to military installations where prisoners are known to be held.

The Constitution prohibits forced involuntary exile, and there have been no known cases of it in the past 10 years. In August, however, a former governmental human rights prosecutor, Carlos Escobar Pineda, was granted political asylum in the United States. Escobar sought asylum in 1989, after his investigation into the May 1988 army massacre of 28 villagers in Cayara, Ayacucho was closed. Nine of the prosecution's witnesses were murdered, and all received death threats.

e. Denial of Fair Public Trial

In the Peruvian legal system, which is based generally on the Napoleonic code, once criminal charges are filed, a judge determines whether probable cause exists. The judicial process prior to trial may last as long as several years, followed by a public trial. Defendants have the right to be present at the trial, at which verdicts are rendered by a judge or a panel of judges. Sentences may be appealed, and judges may send cases back to lower courts for additional investigation. Supreme Court judges, 28 in all, are nominated by the President from slates supplied by an advisory committee, and must be approved by the Senate. Many judges on the Superior and Supreme Courts are active in political parties, and there are occasional claims that decisions have been politically motivated. In December the Government announced troubling restrictions on the use of habeas corpus and writs of amparo, saying these rights had been "abused" by the legal defenders of terrorists. There were only some three dozen terrorism convictions nationwide during the entire year.

Courts face severe backlogs, a product of inefficiency, archaic case law and criminal procedural law, and the sharp increase in terrorism cases. There are too few public defenders for the large caseloads. The Ministry of Justice reported in 1990 that there was a backlog of nearly 50,000 criminal cases. Human rights groups documented hundreds of cases of persons who have been detained without bail while awaiting trial for periods of up to 4 years—in a few cases

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responsible." A military court reportedly heard the Cayara massacre (see Section 1.a.) case in closed session in January 1990 without the presence of witnesses or relatives of the victims. All charges were dropped against the military personnel and the case "suspended." The Supreme Council of Military Justice formally closed the case on January 31, effectively terminating efforts to prosecute the case. The Government decreed in December that security personnel charged with crimes in connection with their service in the emergency zones will be tried in military courts.

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 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. Congress initiated investigations in September following the revelation that both the Garcia and Fujimori Governments illegally tapped the telephones of their domestic political opponents.

A number of rural communities organized rondas to protect against terrorist and bandit incursions. While in parts of the nation rondas have existed for centuries as a form of social organization and to protect residents from invaders and rustlers, many of the newer rondas were actively organized, and sometimes imposed, under the direction of the military authorities. While many members joined voluntarily to defend against Sendero and many leaders are locally elected, there were numerous reports of the forced recruitment of peasants in some areas to serve as ronda members.

Sendero was also credibly accused of repeated forced recruitments. Sometimes civilians were press-ganged into providing guide, manual labor, or other services. Sendero forced peasants to join their military ranks, often for extended periods, requiring their involvement in terrorist attacks or even executions. This practice not only provided the terrorists with the appearance of popular support and overwhelming numbers, but it made identification of the real terrorists much more difficult.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

Although Peru signed in July 1989 the two Protocols additional to the Geneva Conventions relating to the protection of victims of international and noninternational armed conflict, local human rights groups are certain that a significant but unknown number of captured terrorists and innocent civilians were summarily executed by the military in 1990. Sendero's disregard for the rules of war and humanitarian law are also well known (see Section 1.a.). As AI reported, "the violent adversaries of the Government routinely torture, mutilate and assassinate their captives." Both Sendero and the military are known to have blocked passage of relief supplies and humanitarian assistance to populations in their areas of control.

There was widespread abuse by both security and terrorist forces of the rights of prisoners, able-bodied, wounded, and sick alike. The military's violations of international norms

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ranged from the routine blindfolding of prisoners, to the frequent refusal to admit that certain persons were being detained, to the less frequent summary execution of unarmed prisoners. For its part, Sendero simply does not acknowledge the holding of any prisoners by its forces. On this point, Sendero's credibility is extremely high: those captured alive are almost invariably executed.

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, one cable television system, 72 radio stations, and 18 daily newspapers in Lima alone, Peruvians have access to a very broad range of opinion and information. The Government owns one of the three national television networks, a radio network, and two newspapers. During 1990 the Fujimori Government moved to "depoliticize" news coverage in state-owned media outlets. Most major opposition parties boast their own newspapers, and opposition figures also have frequent access to the government media.

There were fewer complaints during 1990 of government pressure on the media or of restrictions on journalists. There was, however, a series of charges of "apology for terrorism" filed against numerous journalists and media outlets for publishing interviews with MRTA leader Victor Polay Campos after the MRTA's mass prison escape in July. Otherwise, there was no discernible government policy, under either President Garcia or President Fujimori, to harass or pressure the media.

Journalists were sometimes barred from traveling in the rural areas of the emergency zones, and those who attempted to do so were occasionally detained by the military, although they were generally released within hours. There were also some complaints of police confiscation of video and photographic material of events the Government did not want publicized. These instances were not common, however, and, in general, the level of journalistic access to the emergency zones improved.

Antimedia actions by the police, not always supported by requisite court authorizations, focused on the two newspapers universally viewed as competing public "fronts" for Sendero and MRTA terrorist operations. Repeated police actions in late 1989 and early 1990 effectively removed the pro-Sendero newspaper El Diario from public circulation. Only a few issues appeared, edited and printed clandestinely, after February. Janet Talavera, the interim director of El Diario, who was detained in June, 1989, under the provisions of the legislation prohibiting "apologies for and encouragement of terrorism" and subsequent terrorism charges, was still awaiting trial at year's end. Luis Arce Borja, the paper's permanent director, also remained under indictment for "apologies for and encouragement of terrorism" and spent the year living abroad. There were also several police raids against the pro-MRTA newspaper Cambio during the first half of the year; several staff members were arrested on terrorism charges. On a few occasions, police confiscated Cambio press runs from distributors and public newsstands. For the most part, however, the newspaper continued to publish openly and regularly.

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In separate actions MRTA and Sendero forces occupied the offices of more than a dozen radio stations and wire services, forcing the media outlets to transmit political propaganda messages. Sendero also destroyed a government television relay station in Huaraz in May. At least a half-dozen rural radio stations were bombed during the year by Sendero. Unknown terrorists exploded a bomb at the printing plant of Expreso newspaper in March. The offices of Channel 11 television, owned by Lima's independent mayor, Ricardo Belmont, were twice attacked with explosives.

Journalists were sometimes the victims of violence and threats. The College of Peruvian Journalists reported that as many as 10 persons involved in the news media were killed in 1990. Newspaper editor Pedro Macedo Figueroa was killed by Sendero terrorists on October 24 in Ancash. Local investigative journalist and lawyer Oswaldo Calderon Almonacid was killed by unknown assailants on October 6 in Huancavelica. In June, in the first action of its kind, the Organization of American States' (OAS) Inter-American Court of Human Rights ordered the Government of Peru to take steps necessary to protect the lives of the witnesses to the November 1988 murder, reportedly at the hands of the military, of journalist Hugo Bustios. (One witness, Delfin Ortiz Serna, was shot to death by unknown assailants in May 1989; other witnesses were intimidated.) The Court also summoned the Government to an August public hearing. The Government took steps to provide security for the witnesses and to comply with the court order. By year's end, however, the military personnel publicly identified in the case had yet to be charged or detained. The owner of the Panamericana Radio and Television Network, Hector Delgado Parker, kidnaped by the MRTA in October, 1989, was freed on April 21, 1990, after his station broadcast a number of MRTA statements and reportedly paid a multimillion dollar ransom. Following his criticisms of Sendero, Raul Gonzalez, a noted journalist and researcher on Sendero, was publicly threatened with death in the May 28 edition of El Diario. Several other journalists and academics writing on narcotics trafficking or subversion also received threats.

Academic freedom is widely respected, but academics and students are sometimes the victims of threats and abuses.

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 only be denied for reasons of public safety or health. Municipal authorities usually approved permits for demonstrations in nonemergency zones. Many unauthorized demonstrations also occurred, and, for the most part, the Government dealt with them in a nonconfrontational manner. On a number of occasions, however, poorly disciplined police on the scene overreacted, responding with more than the minimum force necessary, resorting to clubs, tear gas, buckshot, and truck-mounted water cannons to break up marches or to disperse large crowds. Then-President Garcia formally apologized after police opened fire with buckshot February 7 on a peaceful March led by United Left presidential candidate Henry Pease. Pease, several supporters, and two journalists were slightly wounded. The police without reason attacked a May 7 Mother's Day protest

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march of recently fired municipal government charwomen, using clubs, water cannon, tear gas, and buckshot.

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. Members of minority religions encounter no government interference in practicing their faith. Organized religions are free to establish places of worship, train clergy, engage in religious publishing, and proselytize. Foreign-born clergy are not barred from entry; rather, they constitute a significant presence, even within the dominant Catholic Church.

Members of various religious organizations report having received death threats from Sendero, the MRTA, or the CRF during 1990 and several religious workers were killed by Sendero. Among those religious workers executed by Sendero were a Jehovah's witness, a Baptist minister, two Mormon missionaries, and a 70-year-old Catholic nun. Sendero bombed several houses of worship. The MRTA claimed responsibility for two bombings of Lima synagogues. Some of these and similar killings appeared to be prompted by a perception that the religious workers had engaged in "political" activity, but a number of religious officials fear that Sendero is becoming increasingly antagonistic to organized religion in general.

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. Other domestic and international travel is not known to be restricted by the Government for political reasons.

Sendero called for numerous "armed strikes" in various parts of the country, during which civilians were obliged to stay at home or risk violence if they traveled. There have been no major resettlement efforts by the security forces since the mid-1980s. There were, however, credible reports of the systematic, forced resettlement of several dozen peasant communities by the military in Huanta province, Ayacucho Department. There were also reports of Sendero forcibly resettling indigenous communities and holding villages against their will in Junin and Ayacucho Departments.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Peru is a democracy governed by a freely elected President and Congress, but the civilian Government's control of the security forces is severely limited. The political process is open, subject to monitoring by an autonomous National Elections Board, and elections are vigorously contested by parties ranging from conservative to Marxist-Leninist. Sendero Luminoso persistently sought to deny citizens their political rights--particularly in the more remote areas--by killing candidates and elected officials and threatening

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voters. However, Sendero failed in its repeated attempts to disrupt the April and June presidential elections, and more than 70 percent of the eligible voters nationwide twice defied the guerrilla calls for boycotts and went to the polls. Candidates for public office, election workers, and voters were all threatened, and in some cases killed, by Sendero for their participation in the electoral process.

Elections are held every 5 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 3 years, at the time of the nation's municipal elections. 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. Balloting is direct and secret.

Under the Constitution, the Government is headed by a powerful executive; an estimated 95 percent of all new laws historically have been enacted through unilateral presidential decrees. Nonetheless, the legislature freely and openly debated government policies, with members of the President's own party able to take positions in opposition. For the first time since enactment of the 1979 Constitution, a Congress was elected in April that is not dominated by the party of the President. The new Congress quickly asserted its independence and tested its ability to act as a counterbalance to the presidency.

The political system, although legally open to all, historically has been dominated by Peruvian males of European or mixed European and indigenous background. The election of President Fujimori, the native-born son of immigrants, was widely seen both as a further opening of the political system and as a rejection of the elite-driven system by the majority of Peruvians who are neither wealthy nor of European heritage. Four of the 62 members of the Senate are women, as are 12 of the 180 members of the House of Deputies.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The year 1990 was an especially dangerous and difficult one for independent human rights observers in Peru. The Lima offices of the International Committee of the Red Cross (ICRC) and the Andean Commission of Jurists were bombed only minutes apart on February 18. The Lima offices of AI--which, by AI convention, do not report on the human rights situation of the host country--were heavily damaged in a bombing attack 2 weeks later, on March 4. No one claimed responsibility for any of the attacks, and there were no injuries. Human rights workers from at least three domestic human rights groups reported receiving death threats from Sendero and from the CRF. Angel Escobar Jurado of the Huancavelica Human Rights Commission was detained by six heavily armed men in civilian clothes on February 27. Human rights worker Guadalupe Ccalloccunto was abducted from her family's house in Ayacucho on June 10, probably by military personnel. Both Escobar and Ccalloccunto were still considered "disappeared" at year's end. Several human rights activists at the University San Cristobal of Huamanga, Ayacucho Department, were systematically assassinated in mid-July (see Section 1.a.). Presumed Sendero

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terrorists kidnaped, tortured, and killed Zenon Ramirez, the human rights secretary of Huancayo's Provincial Federation of Urban Slum Residents, on October 6.

The ICRC, Americas Watch (AW), the Washington Office on Latin America, and the World Council of Churches, among others, all sent representatives to Peru in 1990 to investigate the human rights situation. The World Council of Churches delegation was received by the President, the Ministers of Defense, Interior, and Justice in October, and traveled unimpeded to three emergency zone departments.

The "Permanent People's Tribunal", an international antiwar organization, held several days of mock trials in Lima in July, receiving public testimonies from the victims and witnesses to human rights abuses. The tribunal—which was afforded substantial, nonintrusive security protection by the outgoing Government—found the Government, Sendero, and the MRTA all guilty of systematic violations of the Geneva Conventions and other international standards for human rights conduct.

AI sent an "open letter" to all the presidential candidates in February, urging them to make the protection of human rights central to their electoral programs. The Secretary General of AI visited Peru in May. Although he was not received by President Garcia, he did meet with both presidential runoff candidates.

One of President-elect Fujimori's first postelection activities was his June 15 meeting with the visiting Director General of the ICRC. Access by the ICRC to the emergency zones and to detainees, which had been denied in mid-1988 but restored in early 1989, continued during 1990. The ICRC made numerous visits to detention centers run by the Ministries of Justice and Interior. Despite repeated requests, however, the ICRC remained barred from all Ministry of Defense centers and some police detention facilities in the emergency zones, where incommunicado detention, torture, and other human rights violations are known to occur.

A number of local private human rights organizations constitute the Independent National Coordinating Committee for Human Rights. These include COMISEDH, the Institute for Legal Defense (IDL), the Association for Human Rights (APRODEH), the Center for Peace Studies and Action (CEPAZ), and the Catholic Church's Commission for Social Action (CEAS). A number of 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. 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. Both President Garcia and President Fujimori rebuffed repeated requests to meet with members of the National Coordinating Committee.

In early 1990 the Garcia government repeatedly complained that both local and international human rights groups distorted or exaggerated Peru's human rights problems. The Government's general unresponsiveness to specific inquiries, however, did

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little to improve its credibility. Upon taking office on July 28, President Fujimori decried the state of human rights in the nation and announced his intention to create a presidential national human rights commission. By year's end, however, the commission had yet to be constituted.

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.

Sexual violence, including spouse abuse, is a chronic problem. Police in Lima receive between 150 and 200 formal complaints of rape daily. Reports of such abuse increased in frequency during the year. A special police center, staffed by policewomen, operated in Lima to provide legal, medical, and psychiatric assistance to abused spouses and children. A number of women's organizations and feminist groups are active in Peru.

Peru's large indigenous population and its small black population were subject to pervasive social discrimination, although far less so than before the Velasco revolution of 1968. 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 Lima. Recognizing this fact, the Government has attempted 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, targeted disruption of these efforts by Sendero. 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 black, mixed, or pure Indian heritage.

The traditional tribal lands of indigenous communities in the jungles of Ayacucho, Apurimac, Junin, and Ucayali Departments were attacked by Sendero or MRTA guerrillas, or were seized by newly arrived colonists, often with the backing of narcotic traffickers. Hundreds of Indians, often armed with nothing more than bows and arrows, were killed in the resulting conflicts. A number of communities were massacred wholesale by Sendero, others were forcibly relocated or held captive.

Ethnic and racial differences also became a factor in the 1990 presidential elections, as some sectors attempted to build racist sentiment in opposition to the candidacy of Alberto Fujimori, the son of Japanese immigrants. President Fujimori and his two Vice Presidents proudly proclaim their racial origins, noting that one is Asian (Fujimori), one Indian (first Vice President San Roman) and one black (second Vice President Garcia). To his credit, Mario Vargas Llosa, President Fujimori's runoff opponent, roundly condemned race-baiting tactics.

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Section 6 Worker Rights

a. The Right of Association

The Constitution provides for freedom of association and, except for the judiciary, police, military, and military parastatals, the right to form labor unions without previous authorization. However, there are some legal restrictions on the right to form a union. There is, for example, a requirement to register with the Ministry of Labor for the union to become a legal entity capable of performing its functions. Suspension or dissolution of labor unions is forbidden by the Constitution but 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 Labor Ministry. Unions may form industry-wide federations which can, in turn, form confederations, all of which may affiliate with international labor organizations. Private and public sector unions of workers performing the same type of work cannot join together as a confederation at any level. Shortly after taking office, the Fujimori Government requested technical and financial assistance from the International Labor Organization (ILO) for a review of a proposed unified labor code; the ILO agreed to help. In late December the Government issued a new decree that allows the formation of new unions with a minimum of 20 members, and allows multiple unions within the same workplace. The measure also attempts to limit the power of the politically affiliated leadership of the existing labor organizations by allowing any two unions to form a confederation.

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 unorganized workers are in the countryside and involved in the vast underground "informal" sector which works outside government regulations. Although a significant percentage of organized labor belongs to independent unions and federations, those unions with a political party affiliation are routinely manipulated to serve partisan political interests.

The Confederation of Peruvian Workers is a member of the Inter-American Regional Organization of Workers and the International Confederation of Free Trade Unions. The General Confederation of Peruvian Workers is affiliated with the Communist-controlled World Federation of Trade Unions and its Latin American organization, the Permanent Congress for Trade Union Unity of Latin America.

The Constitution provides for the right to strike "according to law." There is no strike law, however, even though Congress has considered various implementing bills since the Constitution was promulgated in 1979. 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 can intervene and constitute 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 (which can be appealed administratively). A government determination that a strike is illegal can lead to the dismissal of workers or union leaders and permits employers to

hire strikebreakers legally. Despite these restrictions, countless strikes, often wildcat in nature, took place in 1990. There are no norms regulating strikes in the public sector and all such strikes, common though they were, were open to legal challenge. In spite of the constitutional right to strike, nearly all strikes in Peru are declared illegal. However, the workers who strike illegally are seldom penalized. Following a series of disruptive public sector strikes late in the year, the Government issued a supreme decree restricting the right of government workers in "essential services" to strike. Although the right to strike remains, a minimum level of essential services must be maintained. "Essential services" was very broadly defined.

In 1990 the ILO Committee on Freedom of Association (CFA) examined several complaints involving Peru, including the alleged murder and disappearance of trade unionists, workers, and striking peasants; the alleged repression of trade union demonstrations and meetings; the alleged suppression of a teachers' strike and discrimination against the strikers; and alleged attempts by the Government to undermine a collective bargaining agreement with the power and light workers. The CFA asked the Government to guarantee the teachers' right to strike, expressed its profound concern over the murder of 88 peasants in 1989, and asked to be kept informed of corresponding judicial inquiries.

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. Others are paid off to leave the enterprise. Workers may appeal their cases through the Ministry of Labor or, if a decision is not acceptable to both parties, through the civil courts. In some cases, a worker is kept on the company's payroll until a final legal ruling is obtained. In other cases, a worker may be awarded back pay in a final settlement.

There were reported incidents during the year of more serious harassment and intimidation of labor union activists, including arbitrary detention (see Section 1.d.), kidnapping, and killing (see Section 1.a.). Sendero threatened in November to kill the entire leadership of the Federation of Civil Construction Workers because of their organizational efforts.

The right to bargain collectively is provided for by the Constitution, but there are restrictions on what can be negotiated. In the public sector, for example, only working conditions may 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, including in an area of the Amazon basin, granted in a Peru/Colombia border agreement, which is analogous to a free trade zone.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits compulsory labor, and this prohibition is usually respected in practice. There have been a few, unverified reports of compulsory labor on plantations

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in remote areas of the country where law enforcement is all but nonexistent. Sendero has also been accused of forcibly recruiting peasants to either join its ranks or render support services. There were also complaints that the military was recruiting peasants to join self-defense militias, perform guard duty, or render other support services in some places in the emergency zones.

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 for a curtailed workweek at full pay. According to a 1987 Senate report, however, 1.1 million children 6 to 14 years of age work, mostly in the informal sector. Unofficial sources estimate that about half a million children work in the Lima area alone. A June 1989 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 as street vendors, and 53 percent went to school only occasionally or not at all. One-third worked 7 days a week, and 57 percent of the total worked between 2 and 5 days a week.

e. Acceptable Conditions of Work

Labor code provisions concerning conditions of work are routinely ignored by most employers. The code provides for an 8-hour day and an official 48-hour week for men, and a 45 hour week for women. There are government standards for industrial health and safety, but these are rarely enforced, either by the employer or the Government (which has no inspectors). Accidents are common, and there is usually no emphasis on prevention; once accidents occur, employers normally make voluntary compensation, however minimal.

All workers are legally entitled to 30 days' paid annual vacation. Those in the private sector have to work a minimum of 260 days (excluding 30 days' sick leave) or forfeit their vacation. In an economy where unemployment and underemployment total an estimated 80 percent, however, vacation benefits and other conditions of work are readily sacrificed in exchange for steady or even temporary employment. The administratively set minimum wage is increased regularly by the Government, but it continues to lag behind inflation. Equal to about \$50 per month, the minimum wage is not sufficient to provide a decent standard of living for a worker and family. However, many Peruvians are paid more than the minimum wage and many others supplement their income through multiple jobs or subsistence farming, or both. Nonetheless, according to a September 1990 World Bank report, 55 percent of all Peruvians live in extreme poverty.