

In Desperate Straits: Human Rights in Peru after a Decade of Democracy and Insurgency.

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Printed in the United States of America.

ISBN: 0-929692-64-0, (Spanish version: 0-929692-65-9).

Library of Congress Catalog Card Number: 90-83334.

Cover design by AMW Graphics.

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ACKNOWLEDGMENTS

This report was written by Americas Watch Representative in Santiago Cynthia Brown. It is based in part on previous Americas Watch investigations and in part on two visits to Peru, in February and May 1990. On the first of those visits, Ms. Brown was accompanied by Americas Watch Executive Director Juan E. Méndez, who also contributed suggestions to the text of the report. Americas Watch Associate Clifford Rohde provided editorial assistance. Allyson Collins, Research Associate for Human Rights Watch, assisted with research on U.S. aid.

The author is grateful for various forms of assistance from the *Comisión Andina de Juristas*, the *Instituto de Defensa Legal*, the *Coordinadora Nacional de Derechos Humanos*, the *Asociación Pro-Derechos Humanos* (APRODEH), the *Comisión de Derechos Humanos* (COMISEDH), the *Centro de Estudios y Acción para la Paz* (CeaPaz), the *Centro de Investigación y Promoción Amazónica* (CIPA), the *Comisión Episcopal de Acción Social* (CEAS), Fr. Hubert Lanssiers, and the research institute DESCO.

Departments and Emergency Zones (shaded) in Peru, 1989*

* From *Instituto de Defensa Legal* (IDL), *Peru 1989: En La Espiral de Violencia*, Lima, March 1990, p. 15.

The Upper Huallaga and Location within Peru (inset)*

* From *Instituto de Defensa Legal (IDL)*, *Peru 1989: En La Espiral de Violencia*, Lima, March 1990, p. 59.

I. SUMMARY AND RECOMMENDATIONS

Peru has reached the end of a crucial and painful decade. Weakened on all fronts, Peru's democracy has resorted to desperate measures to survive, and the cost has been so high that the State can barely sustain it. A new government is about to inherit this crisis, a government elected largely as a protest against traditional leadership and as perhaps the last hope for moderating the violence that grips Peruvian society.

A brutal insurgent movement, *Sendero Luminoso*, undermines the State through terrorism and, ten years into its so-called popular war against the government, is active in most of the national territory. As a result, about half of Peru's twenty million citizens live under sustained state of emergency, effectively governed by the military and lacking basic protections against arbitrary arrest, disappearance, extrajudicial execution by the armed and police forces or the paramilitary groups they tolerate.

The nation's elected leadership, faced with an unparalleled economic crisis, has been unable or unwilling to confront subversion with reforms that could reduce the economic, racial, cultural and regional divisions feeding the insurgency. Nor has it been able to curb the corruption that undermines confidence in the rule of law. After initially seeking to control human rights abuses in the emergency zones, the government of Alan García gradually ceded authority to the military, such that abuses not only have continued but since 1988 have notably increased, even spreading outside the zones of conflict.

As a major producer of coca leaf, the basis for cocaine, Peru also suffers from the criminality and violence that the drug traffic engenders. This aspect of the national crisis has now become internationalized and may be further militarized, as the United States has determined to train army and marine forces for drug interdiction in the coca-producing Upper Huallaga region. Though not engaged in the processing or distribution of cocaine, peasants in the Upper Huallaga jungle areas already feel the effects of the war against drug traffic and *Sendero* in their region; there has been a substantial increase in human rights violations, by both *Sendero* and the official forces, in the past year and a half.

These problems emerge from the poverty in which most Peruvians

live and the State's historical failure to respond to the needs of this majority. With the brief exception of Gen. Juan Velasco's military regime (1968-75), Peruvian governments of the past forty years have avoided addressing the problems of land tenure that have embittered Peru's rural, largely Indian, population and led many to abandon the countryside for the capital. Social advances that the urban and rural poor were able to achieve under Velasco were diminished or eliminated under succeeding governments, even after Peru returned to democracy in 1980. And although García was elected in 1985 on a platform of social progress, his government instead presided over an economic crisis that has brought Peru to the edge of bankruptcy.

Thoughtful Peruvians of varied political views, including some members of the armed forces, argue that the spread of *Sendero*, the cultivation of coca, and the unhealthy expansion of military power within a democratic State are problems which cannot be resolved without a coherent strategy for development and national integration. At a seminar in Lima earlier this year, analysts as diverse as human rights advocate Diego García-Sayán, executive director of the Andean Commission of Jurists, and Sinesio Jarama, retired Army general and former commander of the military region that comprises Lima and the central jungle areas, agreed on the dangers of a policy that meets Peru's political challenges only with force and rhetoric.

Speaking of the challenge to the State to legitimize itself in the battle against *Sendero*, Gen. Jarama spoke of the need for "projects for development, for administration of justice, for elimination of corruption, for solving the ancestral problems of land tenure, [and]...for integration into the country's political, social and economic life of the sectors which are marginalized and segregated; only in this way can social organization be achieved around concrete projects for development and defense, as a prior step toward the national popular mobilization that is so much talked of and of which nothing has been realized..."¹ García-Sayán, noting the human costs of the military policy, suggested that advances need to be

¹ Paper prepared for delivery to the *Instituto de Estudios Peruanos, Seminario-Taller sobre Liderazgo y Concertación Democrática*, April 23-27, 1990, Lima.

made in five areas: the democratization of the State's own machinery, to encourage popular participation; an increased presence of the State and its authority throughout the country; the protection of human rights, including outreach to the population; respect for international humanitarian law; and the promotion of developmental alternatives in the coca-producing areas.²

Peru enjoys important democratic freedoms, including freedom of the press and of union organization, and a few members of the National Congress have been active in the defense of human rights. On the other hand, although human rights abuses have skyrocketed since our last report was published in October 1988, the issue of human rights has faded from the nation's front pages, and the disappearance of a trade unionist no longer has the power to shock public consciousness. The recommendations of the most important Congressional commission on violence -- the commission presided by Senator Enrique Bernales -- have not been followed, and to date no military officer has been punished for a single instance of abuse of human rights. Human rights were barely discussed in the Presidential campaign of 1990.

Indeed, as Peruvians grow ever more desperate for relief from economic and political instability, there is a danger that public opinion will grow to tolerate official violence as a "solution" to *Sendero*. Americas Watch is concerned by the decline of public debate about human rights, especially when it goes hand in hand with a worsening human rights situation. The conflict with *Sendero* has been costly, both economically and in terms of human life. But as great a threat as the insurgency poses for the democratic State, the legitimacy of that State rests on its refusal to adopt cruel methods of response. The new government of Alberto Fujimori, elected on June 10, faces a combination of problems unique in Latin America. But it also may benefit from the lessons of the past ten years. In this report, we review what we believe to be those lessons, with particular emphasis on the escalation of human rights violations during 1989 and early 1990. Among the observations of Americas Watch are:

- o During 1989, more than 300 Peruvians

² Paper prepared for seminar of *Instituto de Estudios Peruanos*, *ibid.*

disappeared after detention. This practice -- employed primarily by the army -- not only continued in the emergency zone containing Ayacucho and Apurímac, where it had become common, but spread to new zones of counterinsurgency activity such as Junín. In the first four months of 1990, at least another 60 persons disappeared.

o Politically related deaths rose by more than sixty percent in 1989 as compared to the year before, and, at more than 3,000, constituted one-fifth of all deaths for the decade, according to an official investigation. Although it is not possible to be precise about the number of these deaths that resulted from combat -- for reasons explained in this report -- it is clear that the vast majority of Peruvians who have died, and continue to die, in the war between *Sendero* and the Peruvian military are civilians. And while *Sendero* is the single group responsible for most deaths, the official forces bear a heavy responsibility as well. We note in particular that new forms of confronting *Sendero*, such as bombardment of inhabited areas of the Upper Huallaga in 1989, substantially increase the risk of civilian deaths. As for 1990, Senator Bernales of the parliamentary commission on violence has said that, in the first four months of the year, political violence led to more than 1,000 deaths, presaging a year at least as bloody as 1989.

o The crucial task of fortifying the nation's legal structure fell victim to the García government's crisis mentality and the myriad political pressures from military and police forces. The government failed to protect or support the only special prosecutor whose investigations into disappearances in the Ayacucho emergency zone were producing results; when that prosecutor, Carlos Escobar Piñeda, began to isolate military responsibility for a 1988 massacre in Cayara, Ayacucho, he was removed from his job, leaving him increasingly

vulnerable to the death threats that forced him, in November 1989, to seek political asylum in the United States. Failure to prosecute the Cayara case effectively has added one more cover-up of military abuses to an already long list. And the State's abandonment of Escobar has further eroded confidence in the legal system as a means to control human rights violations.

- o With regard to the prosecution of terrorism, the State removed legal safeguards it had earlier provided to ensure due process for, and protect the physical integrity of, suspects accused of terrorism. It also failed to provide protection to judges trying terrorism cases, thus leaving its legal representatives vulnerable to attack by armed groups. These were two features of an approach to the prosecution of terrorism which Americas Watch finds incoherent and insensitive to the rights of persons on both sides of the bench.

- o A positive step was taken in granting the International Committee of the Red Cross access to security-related inmates of the prisons and to the interrogation centers of the anti-terrorism police unit, DIRCOTE. This policy did not, however, address the serious need for ICRC monitoring of detainees held in army barracks and police stations in the rural zones of emergency, where detainees routinely suffer torture and many disappear. The fact that torture is so common a practice in Peru, on both political and non-political detainees, makes the ICRC presence an absolute necessity in all centers where detainees accused of terrorism or terrorist sympathies may be held.

- o The legal case arising from the massacre of more than 120 prisoners in Lurigancho penitentiary, in June 1986, ended recently and unsatisfactorily in the

military's highest court. Although police and press sources reveal that convictions extended to the ex-Republican Guard Director, Gen. Máximo Martínez Lira, he was sentenced to only 30 days of military confinement (which he is to serve in conditional liberty), and separation from the service during that one month, for the crime of negligence. Senior army officers were acquitted - - as they had been in lower military court -- despite overwhelming evidence of responsibility. Thus the military courts have maintained their perfect record of absolving armed forces personnel in cases of human rights abuse.

o Current conditions in Lurigancho are indicative of the State's failure to control corruption by prison guards or to provide adequate resources for even the minimal care of common inmates. The predatory practices of the guards, the subhuman physical conditions, the lack of adequate food or medicine, apply in Canto Grande penitentiary and other Lima-Callao prisons as well, according to prison experts, although the security-related prisoners in Canto Grande fare slightly better than the ordinary prisoners and appear to enjoy some extra consideration by the State. We recommend immediate attention to the problem of unrestricted guard authority in the prisons, which has made the prisons an example of abuse and anarchy. We also recommend review of the policy by which all *Sendero*-related inmates, even the young and minor offenders, are channeled into the *Sendero* prison population in Canto Grande, where they may be intimidated or indoctrinated.

o During 1989 the police, and combined forces of the army and police, were utilized to suppress peaceful labor and peasant protests and to conduct raids on universities, squatter settlements and poor urban neighborhoods in search of *Sendero* sympathizers. Although the right of assembly and the inviolability of the home are suspended under the state of emergency, these actions were of a disproportionate scope and violence, further contributing to a polarization between dissident sectors of the civilian population and the military and police forces.

o A pattern of abuses has begun to emerge from the formation of civil defense patrols in the zones of conflict; these local groups, known as *rondas campesinas*, receive little training or arms but are considered legitimate targets by *Sendero* and are also used aggressively by military authorities in some cases. *Sendero*, the military and police, and *ronderos* themselves have all been responsible for bloody abuses as a result of the development of the patrols. While the need for adequate defense of isolated communities is evident, the abuses associated with some of the *rondas* require a re-examination of the way in which they are defined and the military's authority over them.

o *Sendero* continues to enforce its control through brutality, including the killings of entire family groups, threats against the lives of citizens who participate in elections, selective murders of local officials and parliamentary candidates, and bombings, in clear violation of the relevant laws of war. Another insurgent group, the *Movimiento Revolucionario Tupac Amaru* (MRTA), also has committed acts that violate the laws of war, including the kidnapping of a prominent businessman and selective murders, although neither its

zeal nor its scope of activity matches *Sendero's*.

- o The Lima offices of three international human rights organizations were bombed by unidentified persons in February and March 1990, and the president of a Huancavelica human rights committee, Angel Escobar Jurado, remains disappeared as of February 27. The government's investigation into the bombings was superficial and unsatisfactory; the disappearance of Escobar has not been clarified, nor have the murders of human rights monitors and witnesses to the Cayara massacre during 1989 or the threats that human rights monitors have received from paramilitary groups.

- o Paramilitary groups have killed labor activists, members of Congress and others they choose to call sympathizers of the insurgents, often in areas tightly controlled by the army and police. No one has been prosecuted for these abuses. It is also disappointing that a parliamentary commission created to investigate paramilitary groups divided along partisan lines and could not agree on a final report. As a result, the widespread suspicions of military and APRA party involvement in the most important group, the *Comando Rodrigo Franco*, were neither confirmed nor dispelled.

Americas Watch is also deeply concerned about the proposed role of the United States in Peru. As part of the "Bennett Plan" for drug interdiction in the Andean region, the United States has allocated some US \$36 million for training of Peruvian army and marine personnel and the provision of motor launches, airplane replacement parts and uniforms. A slightly increased amount of military aid is proposed for next year. U.S. officials acknowledge that a secondary aim of the aid is to train for counterinsurgency against *Sendero*, because the insurgents have made themselves a party to negotiations between coca-growing peasants and drug traffickers.

As we note in various sections of this report, grave human rights abuses have accompanied the militarization of the Upper Huallaga. We believe that U.S. involvement in training and the supplying of equipment to the Peruvian military will not eliminate these abuses and may contribute to their increase. We do not discount the seriousness of the *Sendero* presence in the Upper Huallaga or the violence associated with the drug trade. But both *Sendero* and the production of coca have evolved from conditions that are not addressed by militarization, and we fear an enormous loss of civilian life in the conflict that may come to the region. Militarization elsewhere in Peru has, to some extent, assisted *Sendero*'s recruitment, as the army's abusiveness has fed local frustrations and increased divisions among the peasant population. Thus we are concerned that providing military assistance will involve the United States in a complex and protracted conflict, the civilian casualties of which will become, in part, the United States' responsibility.

It is our hope that the government of Alberto Fujimori will work to create a national consensus on the issues of security and human rights, such that the counterinsurgency strategy employed successively by the Belaúnde and García governments during the 1980s will be re-examined and that non-violent means of fortifying the Peruvian State may be seriously explored. The "national popular mobilization" of which retired Gen. Jarama spoke at the Lima seminar remains elusive because its bases are not agreed upon and because the people whose participation is essential to its success, predominantly the urban poor and peasants in the emergency zones, are targets of official as well as insurgent violence. President-elect Fujimori gave voice to the disaffection of these citizens in his campaign. As President, he can represent them first and foremost by ensuring that their basic rights are respected.

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II. THE SOURCES AND SCOPE OF VIOLENCE IN PERU

A. Overview of the Current Crisis

1. Social and political context

Peru, a nation of twenty million, has traditionally been at least two countries: one coastal, centered in Lima, dominated by whites, the other rural and predominantly Indian. Within that basic division there are others, as between the characters of different regions, different economic classes within regions and different ethnic groups. In the cities Spanish is spoken, while in many rural areas the inhabitants speak the indigenous language. Traditionally, and up to the present, there has been little interaction between the coastal centers of political power and wealth and the population of the jungles and highlands. With few exceptions -- most notably the agrarian reform of the Velasco military regime (1968-75) -- the political and economic programs of successive governments have failed to respond to the needs of either the urban or the rural poor. These facts are not in dispute in Peru; what absorbs Peruvians is how to solve the problems that this history and ongoing social fragmentation have produced, and how to do so in the context of an unprecedented economic crisis and a ten-year escalation of political violence provoked by an insurgency.

The problems facing Peru are a daunting complex of economic, political and social ills. A large foreign debt and declining production since mid-1987, inflation that surpassed 2,700 percent in 1989 and the resulting collapse of real wages, are combined with severe economic losses due to insurgent sabotage and the cost of the counterinsurgency effort. As of September 1989, a basic family food basket cost fourteen times the minimum wage.³ Four out of five houses lack water, or sewage,

³ DESCO - *Centro de Estudios y Promoción del Desarrollo*, figures cited in *Instituto de Defensa Legal, "Informe Mensual No. 7,"* Lima, October 1989, p.5.

or electricity. Life expectancy in low-income areas is less than fifty years; nationwide, one in every eight infants dies before completing a year of life, and in the Andean highlands this figure is almost tripled.⁴

The political system of Peru returned to democracy in 1980, guaranteeing a large measure of free expression and the opportunity to vote, but it is a system debilitated by corruption, lack of judicial independence, intense partisan rivalries and the enormous distance between Lima-based government and much of the population. The growing economic importance of narcotics has exacerbated the corruption and violence which permeate Peruvian society.⁵

The economic desperation of the poor, intensified during the 1980s by austerity programs and uncontrolled inflation, has led to the development of an "informal" or underground economy, which by 1986 accounted for 38.9 percent of the Gross National Product.⁶ The same

⁴ *Coordinadora Nacional de Derechos Humanos, "Informe Síntesis Sobre la Situación de Los Derechos Humanos en el Perú Durante 1989,"* Lima, December 31, 1989, and Inter-Church Committee on Human Rights in Latin America, 1989 Annual Report on the Human Rights Situation in Peru, Toronto, January 1990, p.4.

⁵ In 1988, President García stated that income from the drug trade -- in Peru, primarily the growth of coca leaf and its initial refinement into coca paste, or *pasta básica* -- amounted to US \$30 million a month, or US \$360 million a year. In June 1989, Minister of Economy César Vásquez Bazán said on television that narcotics annual income was approaching US \$1 billion. According to research underway by the Andean Commission of Jurists, some US \$537 million a year is derived from the production of *pasta básica* and cocaine (the latter being a small proportion of the total). This yearly amount is equivalent to 21.4 percent of the Gross National Product.

⁶ *El Otro Sendero*, edited by the *Instituto Libertad y Democracia, Lima, Compendio Técnico y Estadístico*. The "informal" economy of Peru, made known in the United States primarily through the writings of Hernando de Soto, director of the *Instituto Libertad y Democracia*, is activity that takes place outside the law or government regulation, including small enterprises in poor neighborhoods, peddling, the black market, the multitude of jobs that the underemployed take on to supplement their incomes, and outright illegal activity such as drug trafficking, as

combination of factors has contributed to a notable rise in violent crime. The State's failure to solve the economic crisis or to deal effectively with crime -- or indeed to clean its own house of corruption -- contributes further to the weakening of respect for the rule of law.

In this context Peru is confronting an insurgent movement, the Communist Party of Peru - *Sendero Luminoso*, which in 1980 declared war on the Peruvian State and since then has not ceased to grow. Official estimates of *Sendero's* fighting strength in 1989 were around 3,000 combatants, men and women; unofficial estimates are up to double that figure. *Sendero Luminoso* has publicized its overall Maoist strategy: a gradual expansion of control from the south-central highlands where it first became established, into the northern and central departments, finally to encircle Lima and choke off the capital's lines of supply and communication. The insurgency, highly particular to Peru although it seeks to expand beyond the nation's borders, uses terror to establish and maintain control, and has attacked both persons and public property with an aim to destroying the already fragile Peruvian State.

During 1989, according to Peruvian human rights organizations, *Sendero* was responsible for some 1,400 killings, of which eighty percent were committed in cold blood. Official figures show that the economic damage *Sendero* has done during the past decade is nearly equivalent to Peru's foreign debt. *Sendero's* savagery and uncanny expansion have taken on a certain mythic force in the Peruvian public consciousness. Correspondingly, faith in the State's ability to defeat *Sendero* is in danger of giving way.

2. The State's response

It is evident that the insurgency finds adherents in large part because of the economic pressures and traditional State diffidence noted above. We are concerned, here, with the consequences of those pressures, and of the insurgency itself, as they relate to the State's protection or violation of human rights.

In previous reports, Americas Watch has traced the development

well as much commercial activity that is legal but is conducted "off the books."

of two governments' legal and military responses to the insurgency. The rise of *Sendero* coincided with the re-establishment of civilian government, as Fernando Belaúnde Terry was elected in 1980 under a new Constitution which guaranteed basic rights and liberties. Belaúnde's administration dealt with increasing social unrest, including labor strikes as well as *Sendero* sabotage, by imposing temporary states of emergency. Political violence -- at that time centered in the highland department of Ayacucho, with manifestations also in the neighboring Apurímac and Huancavelica departments -- was met with the imposition and persistent renewal of the state of emergency in the most affected departments, or provinces within those departments. Ayacucho, Apurímac and Huancavelica are among the poorest areas of Peru, with a population predominantly Quechua-speaking, undernourished, illiterate, and historically ignored by the central government.

Under the state of emergency, which is imposed on the President's sole authority, may last up to sixty days and may be renewed, the security forces may enter the home and carry out arrests without warrants. The rights to public assembly and freedom of movement are suspended. Other rights, such as the right of detainees to know the charges against them and to obtain legal representation, are not legally suspended, but as we noted in a 1984 report, these rights were routinely violated in practice during states of emergency imposed by the Belaúnde government.

Between December 1981 and May 1985, Belaúnde decreed 24 states of emergency affecting part or all of Ayacucho, 15 affecting part or all of Apurímac, 12 affecting part or all of Huancavelica, and seven for the country as a whole. The capital, and provinces within several other departments, were also placed under state of emergency, briefly or for the full period permissible under law.⁷

The effectiveness of the state of emergency in stemming violence was widely debated in Peru, as the numbers of deaths and disappearances registered in emergency zones climbed sharply in 1982-84 while *Sendero*,

⁷ DESCO - *Centro de Estudios y Promoción del Desarrollo, Violencia Política en el Perú, 1980-1988*, Lima, 1989, pp. 348-349, listing of Supreme Decrees declaring states of emergency.

by all indications, continued to grow and expand its areas of operation. Official figures indicate that during 1984 more Peruvians died in political violence than in any other year of the decade -- although 1989 was a close second.⁸ Of particular concern to Americas Watch was the Belaúnde government's abdication of civilian authority in the emergency zones, such that the government ignored and even justified persistent abuses of human rights by the military.

Meanwhile, the Belaúnde government attempted to restore some credibility to the judicial system, through disciplinary actions against judges and judicial assistants for corruption. This campaign, while manifestly necessary, was ineffective for several reasons, among them the chronic underfinancing of the court system and the courts' inability to handle their enormous caseload. An Anti-Terrorist Law, Decree 46, which defined the crime of terrorism in terms both vague and overly broad,⁹ severely prejudiced the rights of persons detained on terrorism charges, and was widely used by the security forces in zones of emergency to arrest opposition political activists, labor unionists and *campesino* leaders not linked with *Sendero*. Torture, which was and is systematically used on both political and non-political detainees in Peru, was facilitated by the law's provision that police be in charge of the investigative stage of the legal process against accused terrorists. These circumstances form part of the background for the discussion of the judiciary in section III of this report.

After the election of APRA candidate Alan García as President in April 1985, some changes were immediately noticeable. The new government stated its commitment to human rights, lifted the state of emergency in Ayacucho, and rejected a purely military solution to *Sendero Luminoso*, which so evidently drew support from the dispossessed. In García's first year, disappearances decreased, as did extrajudicial

⁸ See figures of the Bernales Commission in following section.

⁹ Under Decree 46, a person was considered terrorist if he or she, for example, was deemed guilty of adversely affecting international relations or the security of the state, or of speaking out publicly in favor of terrorism or a terrorist.

executions and indiscriminate killings by the security forces in the emergency zone. At the same time, abuses continued to occur and were rarely investigated, while the power of the military grew apace with the continued spread of *Sendero* and the activities of another insurgent group, the *Movimiento Revolucionario Tupac Amaru* (MRTA).

García was forced to reimpose the state of emergency in Ayacucho, Apurímac, Huancavelica and Huánuco in December 1985 and subsequently to expand the area of the emergency into part or all of the departments of Lima, Pasco, San Martín and Junín by the end of 1988. In some cases the state of emergency was a short-term measure, but in others it was repeatedly renewed. This militarization of a large portion of the national territory had little perceptible success against *Sendero*, but in 1988 the number of politically-related deaths tripled over the year before. In the emergency zone peasants were trapped between the complementary violence of the military and *Sendero Luminoso*. While *Sendero* was responsible for more outright executions, the military engaged, with impunity, in killings and disappearances that increased the population's long-standing distrust of central authority.

Nor could the government realistically hope for near-term success in the counterinsurgency campaign, for practical political reasons. Both the Interior Ministry and a special Senate commission concluded, in 1988, that there was no effective coordination of the counterinsurgency war among the different armed and security forces and no coherent counterinsurgency strategy for them to follow. García's early proposals for economic development of the highlands had not been put into practice, however. By the end of 1988, Peruvians were being governed under state of emergency in eight departments and part of a ninth.

The reporting of human rights violations became more difficult at the same time. Journalists were forbidden to travel in the emergency zone and human rights monitors faced serious threats to their lives, as did witnesses to abuses.

By 1988 as well, paramilitary aspects were added to the war. A group calling itself the *Comando Democrático Rodrigo Franco* began to operate, first as a revenge squad against *Sendero* and later widening its targets. The military had revived its promotion of paramilitary "self-defense" patrols in rural communities under state of emergency, a tactic

first used under Belaúnde but which had lapsed in the early period of García's government. Thus the elements of political violence further multiplied. In the north-central region of the Upper Huallaga River valley, where coca is produced for processing in Colombia and sale in the United States and Europe, the violence that accompanies the drug trade was also taking on a political component, as *Sendero* sought to establish itself and act as go-between in coca transactions.

Unlike Belaúnde, García did not cede civilian authority to the military without resistance, and García himself on occasion displayed political courage in acknowledging military abuses. Especially at the outset of García's term in office, the issues of human rights, judicial responsibility and civilian authority were intensely debated. And even as the economic and security situation worsened, there still seemed reason to hope that positive signs might translate into broader improvements. For example, although Americas Watch found the overall situation bleak in 1988, we noted that the Office of the Prosecutor General (*Fiscalía de la Nación*), an arm of government independent of both the Executive and the Judiciary, had begun to fulfill its role as public defender against abuses by the authorities. In particular we were heartened by the *Fiscalía's* appointment of a special prosecutor to investigate disappearances in Ayacucho and by that prosecutor's tenacity. We were also heartened, in 1988, by revisions in the anti-terrorist legislation, which strengthened the role of judicial authorities and provided basic protections for detainees.

On the other hand, the courts' inefficiency and subservience to political pressure did not change; nor did the systematic torture to which political detainees were subject while under interrogation by police. Military courts continued to absolve uniformed personnel implicated in violations of human rights, making a mockery of civilian attempts at investigation.

In this context, we observed with deep concern in 1988 that the various branches of government, with few exceptions, exhibited a passive attitude in the face of human rights abuses, including the standing committees of Congress and some of the special committees formed by Congress to investigate abuses. As the government grew resigned and tolerant of violence by the military, the representatives of the ruling party in Congress ignored or actively impeded investigation of serious

allegations, such as those surrounding a massacre in Cayara, Ayacucho, in May 1988. This failure to provide ethical leadership, we concluded, was largely responsible for a growing public tolerance of abuses and opened the way for a further increase in the violence that had already claimed some 15,000 lives and produced over 2,000 disappearances since 1980.

It is important also to mention the conditions of confinement in Peru's penal institutions, for security-related and common-crime detainees. Such is the economic crisis in Peru, and such is the lack of oversight caused by bureaucratic confusion, that conditions in the prisons of Lima and Callao are among the worst anywhere. These conditions have contributed to riots led by security-related prisoners, some of which have had tragic results due to official repression. Because the guards control the interior of the prisons, common prisoners in particular are subjected to a regime of intimidation, robbery and undernourishment against which they have no recourse. Security-related prisoners fare slightly better than common inmates in these conditions, but in the absence of consistent State concern, the prisons are filthy, abusively managed and anarchic.

Sadly, human rights conditions in Peru became bleaker and the García government's attitude even more defensive in 1989 and early 1990, while *Sendero* is currently active in 21 of Peru's 24 departments. The incoming President of Peru, Alberto Fujimori, was elected in large part by the votes of the rural population, the sector most affected by the counterinsurgency and most disaffected with traditional central government. President-elect Fujimori's background as an agricultural specialist suggests that he may emphasize development in the provinces, if the economic situation permits him to do so.

The exploration of alternatives to the current strategy has never been more urgently required. As one recent congressional report on violence pointed out, criticism of "an exclusively military conception of anti-subversive strategy" is shared not only by "intellectuals, specialists in the subject and politicians, but also by military authorities, who have stated that it is not correct to concentrate in the 'military domain' activities and operations that correspond to other domains, such as the political, the economic and the psycho-social...It is obvious that the validity of the critique just described requires a complete review of the counter-

subversion plans now in operation and their substitution by others...."¹⁰

The congressional commission which produced that statement has also made a valuable contribution to the understanding of Peru's current crisis. We review some of its findings below.

B. The Findings of the Bernales Commission

The Peruvian Senate in May 1988 created a commission to study and analyze violence and propose solutions to the crisis. After the Commission produced its first report, in October 1988, its mandate was renewed. The chairman of the Commission is Senator Enrique Bernales Ballesteros.

The work of this commission has been meticulous, within the limits imposed by emergency conditions. Its 1989 report provides a sound basis for examining political violence in Peru, although, as the Commission's report admits, members were not always able to carry out investigations based on witness complaints where these involved travel to zones of emergency. The Commission was often forced to depend on military sources for information about the emergency zones, such as numbers of subversives killed in combat. But in keeping with the intellectual honesty of its presentation, the Commission's report takes note that human rights organizations have questioned whether those dead whom the military has denominated "subversive" can confidently be considered combatants. The Commission also notes that, while it followed up witness statements with requests for official investigation, it did not always get the information it requested.

In another sense, too, the Commission's profile of political violence in Peru is incomplete, as it does not include an analysis of disappearances, a practice we discuss in the following section. To the Commission's figures on violence it is necessary to add 2,400-3,000 disappearances for the decade, of which more than 300 occurred in 1989.

Sources of the Commission's figures include press accounts, direct

¹⁰ *Comisión Especial de Estudio e Investigación sobre Terrorismo y otras Manifestaciones de la Violencia* (hereinafter The Bernales Commission), *La Violencia en El Perú: Informe 1989*, Lima, January 1990, p. 40.

testimony, material provided by human rights organizations and research institutes and, in large measure, the Ministries of Defense and Interior.¹¹

1. The 1980s

The Bernales Commission's 1989 report is especially valuable in that it traces violence in Peru through the entire decade of the eighties. Some of these comparative figures put 1989 developments in useful perspective.

For example, with regard to attacks on persons and property by *Sendero Luminoso*, MRTA, and paramilitary groups, the report indicates that between May 1980 (when *Sendero* declared the beginning of its prolonged popular war against the State) and the July 1985 inauguration of Alan García, a total of 5,880 attacks occurred. In the four and a half years from July 1985 to December 1989, that number nearly doubled, to 10,621. This brings the total for the decade to 16,501, of which the 2,117 occurred during 1989.

Aside from the numbers, the Commission followed the geographical distribution of violent actions, noting that in 1989 urban areas suffered more than half of these. This represents a shift from the early 1980s when violence was concentrated in the rural departments of Ayacucho, Huancavelica and Apurímac. Attacks on electrical towers alone, including those which affected northern industries such as mining, involved repair costs and lost work hours amounting to a total of US \$600 million in 1989. During the decade, the economic cost of terrorism to Peru,

¹¹ Without detracting from the Commission's findings, which we consider sound and which are widely quoted in Peru, it is relevant to note a methodological observation made by the research institute DESCO, which has also published a thorough and useful study of violence in Peru during the years 1980-1988. In its discussion of "terrorist attacks," DESCO takes note of an odd discrepancy between the figures of the Defense and Interior Ministries and the reporting by the national press; that is, the official sources generally offer figures twice as high as those of the press on terrorist attacks, while official figures for numbers of victims are generally 20 to 25 percent lower than those reported in the press. (DESCO, *Violencia Política*, *op. cit.*, p. 23.) Such are the discrepancies that the Bernales Commission attempts to resolve.

according to the Commission, was over US \$15 billion -- equal to almost 83 percent of the Gross National Product and nearly equal to the nation's foreign debt.

The report also quantifies the dead and wounded, although it cautions that its numbers may be low by as much as ten percent due to difficulties in confirming oral testimonies. By year, its figures on deaths are as follows:

1980: 3
1981: 4
1982: 170
1983: 2,807
1984: 4,319
1985: 1,359
1986: 1,268
1987: 697
1988: 1,986
1989: 3,198

Total dead: 15,811. With ten percent variable, up to 17,500.

Based on its lower, confirmed figure, the report categorizes the dead: 6,386 civilians, 8,079 subversives, 1,197 members of the forces of order and 149 persons labeled "narcotraffickers" (all of these last were killed during 1989).

With regard to the deaths of those defined officially as subversives and listed as such in the Commission's findings, the report notes that there is some question as to whether all of these can be construed as combatants. In particular, given the especially high number of supposed subversives killed in 1983 and 1984 -- 4,428, or more than half of the decade total -- the Commission recalls that, in its October 1988 report, it had requested investigations into these deaths, referring to the "probability that a part of this high number corresponds to persons who, according to some sources, are considered 'disappeared.'"¹²

¹² Bernales Commission report, *op. cit.*, p. 24.

2. Dead and wounded, 1989

As these figures indicate, violence increased substantially between 1988 and 1989, and 1989 produced the second-highest death toll of the decade. Seen another way, during 1989 an average of 8.76 Peruvians died every day in political violence. This represented an increase of more than sixty percent over the number of killings in 1988, according to the Commission's figures. The report also notes that, as between 1984 and 1989, the years with the highest number of deaths, 1989 may represent the larger social cost, as violence had spread to the entire national territory. For 1989, the report breaks down killings by attribution to those responsible. Of a total of 3,198 dead:

1,526 by *Sendero Luminoso*
161 by MRTA
11 by the *Comando Rodrigo Franco*
153 by unidentified terrorist groups
127 by the "narcotraffic"
342 by the police forces
886 by the armed forces

Breakdowns by month show that more than one-fourth of the killings occurred in the months of June (470) and October (398). June was the month in which security forces carried out their most intensive campaigns against *Sendero* in the north-central Upper Huallaga region; October violence was linked to the approaching municipal elections, which *Sendero* sought to undermine through terror.

Total civilian deaths were 1,450, only slightly lower than the number of civilians killed in 1984 (1,758).

The principal victims, as always, were peasants, with 700 killed and 129 wounded. The report attributes this in part to inadequate police protection in rural areas, adding that while peasants interviewed by the Commission requested a stronger and more constant police presence, this request was combined in some cases with complaints that police "dedicate themselves to acts of pillage and intimidate *campesinos*, accusing them

falsely of being *Senderistas*."¹³

In rural areas the Commission encountered special difficulties in ascertaining the names, ages and genders of the victims, especially in the cases of supposed subversives. But from the information it was able to gather, young people appeared to be the primary targets. The numbers are significant among the age group 15 to 19 years old, ascend in the group aged 20 to 24 years, and peak with the ages 25 to 29.

The second-most affected group was the urban poor, reflecting the overall shift of violence to the cities (260 dead, 223 wounded), and third came workers (148 dead), followed by representatives of government authority (144 killed, including 52 mayors, as well as governors, judges, and provincial prosecutors -- these being targets mainly of *Sendero*). Total armed forces dead were 105, and the national police lost 243 members. For the combined forces of order, 1989 was the year of heaviest casualties in the decade, with deaths most numerous in June.

As to woundings, which totaled 1,033 for the year, the Commission observed especially how few they were in relation to deaths. This is attributed to two factors: first, the *Sendero* practice of killing wounded; second, the way in which the forces of order report on confrontations with subversives. After such confrontations, the Commission pointed out, there have been cases in which information is given on dead and wounded among the soldiers but on subversives only dead and an undetermined number of those who allegedly fled; in other words, the armed forces have not registered either wounded or detainees. This has been a matter of grave concern to human rights organizations in Peru, which fear that the lack of reporting may conceal executions of innocent civilians.

¹³ *Ibid*, p. 17.

3. Deaths, January-April 1990

According to Senator Bernales, the week preceding the April 8, 1990 Presidential and parliamentary elections, and the week beginning April 16, were "the most violent of the decade."

Senator Bernales stated that, according to his commission's sources, political violence in the first four months of 1990 had claimed the lives of 1,080 Peruvians, as compared to 904 during the same period the previous year. In April 1990 alone, 301 persons were killed for political reasons.¹⁴

C. Disappearances

The practice of forced disappearances began in Peru in 1983, and since then, the phenomenon has been closely related to the imposition and maintenance of the state of emergency. Human rights organizations in Peru registered the highest number of cases in 1983 and 1984; however, since 1987 those numbers have been rising again, and in 1988 and 1989 Peru had the sad distinction of being the nation with the highest number of disappearances in the world, according to the United Nations' Special Rapporteur on the issue.

Almost all disappearances have been carried out by agents of the military and police, with a handful attributed to unknowns or paramilitary agents believed to be linked to the armed forces. Among the military services, the Army is by far the most involved in the practice.

According to the Lima-based *Comisión de Derechos Humanos* (COMISEDH), 2,405 Peruvians "disappeared" in the years 1983-89. The figures break down as follows:

1983 - 696
1984 - 574
1985 - 253
1986 - 214
1987 - 69

¹⁴ Andean Commission of Jurists, "Informativo Andino," Lima, May 7, 1990, p. 5.

1988 - 293
1989 - 306¹⁵

Amnesty International figures on disappearances are slightly higher. In an April 1990 report, AI put the total figure at more than 3,000 since January 1983, and at 359 during 1989.¹⁶

For 1990, from January through April, COMISEDH registered 60 disappearances.

On occasion, persons who have been detained and disappeared, that is, whose detention is denied by the authorities, do "reappear." From 1983-89, 533 persons reappeared after temporary disappearance; for 1989 alone, this figure was 135, of whom 90 were freed, five were found dead, and the remainder were acknowledged as detainees. COMISEDH does not include these among its figures for disappearances, but publishes them because they reflect the actual incidence of a practice that is carried out with complete impunity and whose outcome rests on the whim of the military authorities.¹⁷

Campesinos are the most often victimized sector. Minors have not been immune, nor have labor unionists, professionals, students, teachers, or human rights monitors. It is evident that disappearance is one of the instruments that the Peruvian military has chosen to use in its war on the insurgency -- a war in which, over the past decade, the targets of violence have been overwhelmingly civilian.

¹⁵ COMISEDH, *Informe Estadístico Sobre La Desaparición Forzada de Personas en el Perú, 1983-89*, Lima, January 1990. The figure for 1986 includes 115 inmates of the San Juan Bautista (El Frontón) prison whose whereabouts were not clarified after the June 1986 riot there. In the zone of emergency, that year, 99 persons disappeared.

¹⁶ Amnesty International, *Peru: Continuing Human Rights Violations, 1989-90*, London.

¹⁷ COMISEDH, *Informe Estadístico*, *op. cit.*

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III. THE JUDICIARY

A. Prosecution of Terrorism

As we described in our 1988 report, there is ongoing debate in Peru as to the manner in which to define terrorism and the most effective way to prosecute it. During 1989, the government's policy for terrorist prosecutions took one step backward, one step sideways, one step forward and a stumble. That is, the García government faced the challenge to promote respect for the basic rights of detainees while increasing the efficiency of prosecutions but, under a variety of pressures, chose to endorse measures that, among themselves, did not constitute a coherent approach. One in particular, the modification of Law 24,700, represented a substantial regression with regard to safeguards of due process.

Law 24,700, enacted in June 1987, outlines the procedures for investigation, prosecution and trial of defendants accused of terrorism. As originally enacted, the law contained safeguards for detainees during the investigative stage: the police investigation was to be overseen by a provincial prosecutor, the right to counsel was not subject to waiver, incommunicado detention could take place only on a judge's order, human rights organizations were explicitly authorized to take an active role by informing the provincial prosecutor of a detention so as to protect the rights of the detainee. The police objected to the prosecutor's role, arguing that it delayed and even undermined their ability to investigate effectively. They also demanded a broader authority to petition for judicial orders of incommunicado detention. In July 1989, the law was modified. The new legislation, Law 25,031, returned to the police the direction of investigations; broadened the basis upon which police may petition a judge for orders of incommunicado detention; and required that, before a provincial prosecutor recommends the closing of a case and liberty for the suspect, he must first consult with the *fiscal superior*, or chief prosecutor for his district. Law 25,031 also removed the provision for an active role by human rights organizations; although in practice these organizations may still alert prosecutors to detentions, the cancellation of this role under the law was a signal of the government's declining interest in their concerns. Similarly, with regard to the provincial prosecutor, under other

legislation he still may intervene in an investigation to protect the rights of a detainee, but the reduction of their authority under Law 25,031 alerted prosecutors that such activism was no longer in fashion politically.

At the time of our 1988 report, there were already signs that Law 24,700's protections might be repealed. We noted then: "There is ample evidence in Peru to show that, when such controls are lifted, a pattern of serious human rights violations emerges ..."¹⁸ We believe that, if applied seriously, the safeguards in Law 24,700 would have reduced abuses, and that removal of those safeguards is an indication that the government lacked the will to curb abuses. In practice, the legal aid group *Instituto de Defensa Legal* has perceived that the modifications in 25,031 led to arbitrary conduct of investigations by police, such that often the defendant's counsel was not present, as required by law, at the investigative stage when the defendant's statement is taken.

Law 25,031 also modified another aspect of its predecessor. Law 24,700 had authorized the judiciary to create special courts, if it found them necessary, to handle terrorist cases. Law 25,031 required the creation of such special courts, a measure strongly supported by the García government over the objections of the National Association of Magistrates, among others. Those opposed to the special courts argued that ordinary courts were capable of handling terrorism cases, that the creation of the new courts would cost money that could greater benefit the under-financed existing court system -- whose personnel and scarce resources would be drained off to staff and operate the special courts -- and that the judges presiding the special courts would be clear targets of the armed groups.

Law 24,700, in contemplating the creation of special courts for terrorism cases, had also contemplated the danger facing special-court judges by requiring that the judiciary, the Public Ministry (the government's public defender) and the Ministry of Interior "will take pertinent measures to ensure the protection and security of the judges, functionaries, witnesses and experts involved in the legal case[s]" tried in

¹⁸ Americas Watch, Tolerating Abuses: Violations of Human Rights in Peru, New York, October 1988, p. 30.

special courts. Such protection has not been forthcoming, for either the judges of the specifically designated special courts or those trying terrorism cases in two of Lima's correctional courts.

As the President of the Superior Court of Lima, Manuel Matos, wrote in the daily *La República* on May 2, 1990, protection against attack "is not given, and never has been given, to any of the eleven judges of the 12th and 13th Correctional Courts that are responsible for cases of terrorism, except for police presence to protect Drs. Quezada Muñante and Contreras Morosini. But not even for those two does there exist protection of their homes 24 hours a day... The Special Courts... for me, are a fallacy." As cases cited throughout this report will make plain, the danger facing these judges is enormous. The State's inability or unwillingness to dedicate resources to protect judges trying terrorism suspects -- who have assumed such enormous risk under a plan the García government forced upon the judicial system -- is symbolic of the incoherence with which the government approached legal solutions to the problem of terrorism.

There were seven special courts as of the end of 1989. Three functioned in Lima, including one especially created to combine the various legal cases against *Sendero Luminoso's* military leader, Osmañ Morote Barrionuevo. In the rest of the country, four special courts were created, one each in Junín, Puno and Huánuco and a fourth for Cusco and Madre de Dios.

In October 1989, Law 25,103 was promulgated, modifying Law 24,601 which had been in effect since March 1987. The earlier law defined and criminalized the act of terrorism in terms less broad than its predecessor, Decree 46.¹⁹ The 1987 law also contained an innovative provision in Peruvian jurisprudence, contemplating the possibility of plea-bargaining or, as it is described in Spanish, repentance. Law 25,103, popularly known as the "law of repentance," sets forth the conditions under which a plea-bargain with an alleged or convicted terrorist may

¹⁹ Decree 46 had criminalized membership in a terrorist association (conspiracy) and the advocacy of terrorism (apology for terrorism). For a discussion of that law, see Americas Watch, *Abdicating Democratic Authority: Human Rights In Peru*, New York, October 1984, pp. 32-33.

occur. Reduction of sentence may be offered if the detainee voluntarily renounces his or her association with a terrorist organization and its activities, confessing to prior activities with the organization. Exemption from punishment may be awarded if information is given which makes possible the identification and detention of other members and leaders of the organization, and a conviction and sentence may be set aside if a sentenced terrorist approaches the judiciary with information that makes possible the detention of terrorist leaders or members of the terrorist organization.

We consider this legislation a positive step, as it permits judicial discretion while also requiring concrete cooperation from the beneficiaries -- provided, of course, that it is applied seriously and judiciously. As of May 1990, no prisoner convicted of terrorism was publicly known to have taken advantage of the law. But in the long run the mechanism may provide important intelligence and serve as an alternative to the cruder forms of inducement traditionally used in investigations of terrorism.

While this positive measure was being considered, on the other hand, President García in July 1989 made a proposal which would have taken the prosecution of terrorist offenses in an entirely different direction. Hard on the heels of obtaining approval for the special civilian courts to deal with terrorism cases, and in open contradiction of that measure, for which he had fought hard, García called for the transferral of terrorism prosecutions to military courts. The idea was not a new one; Belaúnde proposed it during his Presidency, and it has surfaced from time to time since then. In 1989 it drew immediate support from some sectors of the FREDEMO coalition that later presented Mario Vargas Llosa as candidate for President, and from former President Belaúnde himself. But the Attorney General, the dean of the Bar Association, the president of the Supreme Court, the Minister of Justice and the National Association of Magistrates all opposed the suggestion strongly, on the grounds that it was unconstitutional. Debate over the next two months included discussion of whether to amend the Constitution, whether the military courts could be impartial in cases where their own pursuit of terrorist suspects makes them a party, and whether the President's suggestion had been a responsible political proposal or more in the nature of a political distraction.

At some point the proposal sank from sight, in our opinion fortunately. There has been no evidence that military courts in Peru are better equipped than the ordinary court system to investigate and prosecute terrorism. To the contrary, the military courts have failed resoundingly to carry out the constitutional mandate they do enjoy -- that of prosecuting crimes committed by military personnel in the line of duty -- and the delays in their proceedings rival those in civilian courts.

Even more fundamental, as the Lima newspaper *La Republica* editorialized, the President's proposal was "a setback for the civil power in favor of the military in the name of an undemonstrated rapidity and severity which may lend itself to greater injustices, in depriving many defendants, who may be innocent, of the guarantees due to them under the Constitution."²⁰

Americas Watch views with consternation the García government's failure to develop a coherent vision of legal reform, as regards the prosecution of terrorism. To maintain the safeguards afforded to detainees in Law 24,700, for example, would seem the very least that a democratic government would guarantee to its citizens. The fact that the government did not defend those safeguards, but rather gave in to police pressure, is extremely disturbing both as regards due process and in what it implies for future efforts at reform. We urge that the incoming Fujimori government fortify the civilian judicial system -- and thereby the public's respect for legal norms -- by legislating protections for terrorism suspects as in Law 24,700. Adherence to basic principles of due process should not be negotiable, and can only strengthen the State.

B. Administration of Justice

The absence of a clearly defined set of principles to govern the prosecution of terrorism reflects not only the urgency with which the public and the Peruvian government perceive the security situation but also deep frustration with the civilian courts' failure to deter terrorism and criminality. The issue is broader and deeper, however, than the emergency

²⁰ Quoted in *Instituto de Defensa Legal* (hereinafter IDL), Peru 1989: En la Espiral de Violencia, Lima, March 1990, p. 141.

provoked by *Sendero Luminoso* or even the spread of crime and the enormous caseload this represents. Peru's court system is cumbersome, representation is expensive, and reform efforts have tended to be conceived as stopgap measures rather than systemic changes. A central problem, and one that predates the current economic crisis, is that the courts are chronically underfinanced. This contributes to delays and encourages corruption particularly as regards prosecutions for narcotics trafficking but also in ordinary criminal cases.

Where terrorism is concerned, there is a widespread public perception, not always justified, that the courts are too lenient and release dangerous subversives on technicalities. One impetus for the government's drive to create the special tribunals was precisely to combine the various legal cases against *Sendero* leader Osmán Morote, whose first trial, in ordinary court, ended with acquittal in July 1988 (although in October of that year Morote was convicted on another set of charges). In November 1989, the granting of bail for Raúl Américo Cruzat Cárdenas, another key *Sendero* leader, reawakened this controversy. Cruzat, who had been accused of crimes that took place while Decree 46 was still in force, argued that he deserved the conditional freedom permitted under that law, and his petition was granted, to the distress of the special state prosecutor for terrorism, among others.

At the same time that high-profile defendants may receive such consideration, the opposite is also true, as we have noted in past reports: defendants against whom there is no sound basis for terrorist charges may suffer lengthy detentions without trial due to the court system's inefficiency. The normal delay before trial, in terrorism cases, is between two and three years. In a typical case, Raúl Quispe Palomino of Lima, arrested on March 16, 1987, is charged with having offered his home for "subversive" meetings -- a vague charge that is believed to have been based on statements made under torture in police custody -- and his case came to court on April 23, 1990, that is, after a delay of almost three years. Further, if he is convicted and wishes to appeal the conviction, the delay at the appeal level can be expected to last up to eight months or a year.

The courts are also unable to proceed on cases of military abuse, which include mistreatment and torture of detainees and, a persistent feature of the counterinsurgency strategy, forced disappearance. In

disappearance cases, the courts are paralyzed by the combination of military denials of detention and the government's lack of will to oversee and control military actions in the zones of emergency. One effect of this situation is that, because the courts cannot guarantee protection, much less effective investigation and prosecution, witnesses in disappearance cases often do not dare to come forth.

In fairness, it must be noted that judges and prosecutors are not always lacking in initiative; indeed a few have distinguished themselves in pursuing cases despite hostile conditions.²¹ These officials show a quiet heroism for which they can expect little political support and even fewer concrete results. Moreover, in areas under state of emergency, particularly where armed conflict is acute, judges and prosecutors have so little assurance of security that many have been forced to leave. In the emergency zones generally, and especially in Ayacucho, Apurímac and the jungle areas, there is virtually no judicial presence, and what there is, is confined to the provincial capitals. In Huancayo, the province within Junín department that contains the departmental capital, fully half of the districts lack civil and judicial authorities, according to human rights sources in Lima; this is all the more striking because Junín is a department with a relatively short history of emergency. The withdrawal of judicial authorities from the zones of conflict is of a piece with the weakening of the civilian State presence there generally, and corresponds to the *Sendero* program of creating a vacuum of authority that the insurgents seek to fill.

Despite the honorable work of some judges and prosecutors, the judicial system is highly subject to political manipulation. The Supreme

²¹ See, for example, the Cayara massacre investigation by prosecutor Carlos Escobar, in section V, and the human rights complaint filed by local prosecutor Pedro Chimay of Tocache, San Martín, in section VII. Also César San Martín Castro, judge of the 21st Investigation Court of Lima, who granted a petition for *habeas corpus* in November 1989 after an arbitrary detention by police, rejecting the government's claim that the state of emergency barred the remedy of *habeas corpus*; see Human Rights Watch, The Persecution of Human Rights Monitors, December 1988 to December 1989: A Worldwide Survey, New York, December 1989, p. 225.

Court, which should offer leadership in judicial independence, instead has repeatedly handed down controversial rulings favoring military jurisdiction over civilian, in human rights cases where military personnel have been implicated. In such cases the legal argument is that the crimes alleged have been committed in the course of military duty. One example of the results, the Lurigancho riot-suppression case, is described below. At the same time, when the Supreme Court does show reluctance to accede to political pressure, such is the low standing of the court system that pressure on it may be exerted publicly, without the courtesy of disguise, as when Flavio Núñez Izaga, a member of Congress from the governing party and member of a congressional committee on justice, threatened the Court with a constitutional challenge because it delayed in creating the special anti-terrorism tribunals.²²

C. Two Cases of Impunity

1. Artaza: civilian court

One rather bizarre example of the judiciary's role, as regards human rights, occurred in December 1989, when a judicial resolution declared Marine Capt. Alvaro Artaza officially dead. Artaza, former chief of the Marine base in Huanta, had been accused of involvement in the killings of 49 peasants whose bodies were discovered in graves in Pucayacu during the Belaúnde government. He had also been implicated in the killings of six evangelical ministers and the disappearance of journalist Jaime Ayala Sulca, who entered the Huanta base to file a complaint of police abuse, in August 1984, and has not been seen again. The Supreme Court awarded jurisdiction to military courts in the Pucayacu and Callqui (ministers) cases, but in the Ayala case the civilian courts were given jurisdiction. In April 1985, just days after the Ayala jurisdiction decision, Artaza suddenly vanished, supposedly kidnapped by *Sendero*. The press questioned the military's version. But the armed forces considered him dead, without making any serious investigation; his relatives did not seek

²² IDL, *En la Espiral de Violencia*, op. cit., p. 137.

an investigation either.²³

While Artaza was in this vanished state, a legal petition was filed on his behalf questioning civilian courts' authority to try the case and requesting military jurisdiction. This was not granted. With his officially recognized death, however, the case against Artaza is necessarily at an end. This "resolution" is hardly satisfactory, given the odd circumstances in which Artaza was suddenly unavailable for prosecution. The navy has the burden to show publicly that the declaration of death rests on fact, not on convenience.

Artaza would have had reason to prefer trial in military court. To date, these courts have convicted not a single military official for a serious abuse of human rights under state of emergency. The military courts' failure to prosecute violations of human rights committed by armed forces personnel is so consistent that it must be recognized as a policy of impunity, and as such, a strong contributing factor in the continuation of abuses.

2. Lurigancho: military court

On June 18, 1986, *Sendero Luminoso* prisoners at three prisons in Lima and Callao set off coordinated riots to protest their conditions of confinement and government policy toward them. President García ordered the military to quell the riots, and in the San Pedro de Lurigancho and San Juan Bautista (El Frontón) prisons, the outcome was multiple executions of inmates after their surrender.²⁴ In all, some three hundred inmates and guards were killed and a similar number were wounded. The legal case involving El Frontón, where the prison was bombarded and later, some thirty surrendered prisoners are believed to have been executed by the navy, was heard in a secret proceeding before the navy's Judge-

²³ Further details on the legal history of this case may be found in Americas Watch, Human Rights in Peru after President García's First Year, New York, September 1986, pp. 93-94.

²⁴ For a detailed description of these events, see Americas Watch, Human Rights in Peru after President García's First Year, *op. cit.* pp. 99-112.

Advocate but never opened publicly. The Lurigancho case, which involved the army and prison guards, reached its conclusion in June 1990.

In Lurigancho, more than 120 inmates died, most of them after they had surrendered. A government investigation implicated some ninety officers and soldiers of the Republican Guard in those executions. When a civilian judge indicted Army Gen. Jorge Rabanal, who had commanded the operation, for murder, the military closed ranks and demanded that the trial be carried out in military courts. In a much-disputed ruling, the Supreme Court awarded the military courts jurisdiction.

That decision had several consequences -- among them, that none of the political authorities involved in the quelling of the riots was indicted, although there was evidence that Interior Minister Agustín Mantilla had made tactical decisions directly affecting the outcome and other civilian officials had also played a direct role.²⁵ Among the accused were, however, Army Gen. Rabanal and the then-director of the Republican Guard, Gen. Máximo Martínez Lira, as well as a Guard colonel, Rolando Cabezas, who was considered one of those most responsible for the killings.

The case went to trial in August 1989 and on December 11 the court convicted only two of the 78 accused, exonerating all the rest on grounds of insufficient evidence. The two convicted, moreover, did not include either Gen. Rabanal or Gen. Martínez Lira, the highest authorities at the scene of the massacre. Col. Cabezas of the Guard was sentenced to fifteen years in prison and a Guard lieutenant received a seven-year sentence. Although the conviction of Cabezas was well-founded, the exculpation of senior officers and of nineteen other defendants was the

²⁵ A special commission investigating the suppression of the riots, chaired by Senator Rolando Ames, could not reach a unanimous conclusion as to the extent of culpability of civilian officials, but both the majority and the minority (with whom Ames associated himself) coincided, in their two reports, as to the involvement of President García and members of his Cabinet, as well as the Director of the National Penitentiary Institute (INPE), in the events leading to the massacres. For details of the Ames Commission's investigation and findings, see Americas Watch, *Tolerating Abuses*, *op. cit.*, pp. 61-65.

real message of the trial. Senator Rolando Ames, president of the parliamentary commission that had investigated the prison massacres, voiced the opinion of the human rights community when he said that "We are opening up the possibility that in our country the action of murder will be institutionalized."²⁶

Pressure for reconsideration of the verdicts led the military's highest court, the Supreme Council of Military Justice, to review the case. The results, however, are not encouraging. The full text of the sentences has not been made public, at this writing, but press and police sources indicate that on June 7, 1990, the Supreme Council handed down the same sentence as the lower court for Republican Guard Col. Cabezas (fifteen years) and a somewhat heavier sentence than the lower court (ten years) for Guard Lt. Javier Martínez, as well as two-year sentences for five guard subordinates. Two guard officers who had been acquitted previously -- Col. Narciso Azabache and Gen. Máximo Martínez Lira -- were sentenced respectively to six months and 30 days of military confinement, combined with temporary separation from the service for the duration of their sentences. Martínez Lira's conviction hardly merits the term: his sentence is absurdly light, he is permitted to serve it without actually being confined (in conditional liberty), and the crime of which he was convicted -- negligence -- in no way corresponds to the responsibility that pertained to him as the Director of the Republican Guard in June 1986. In addition, the Supreme Council once more absolved nineteen guard officers, 45 of their subordinates, a general of the then-Republican Guard, Army Gen. Ismael Araujo and, finally and most disturbingly of all, Army Gen. Jorge Rabanal, who commanded the operation at Lurigancho.

²⁶ IDL, *En la Espiral de Violencia*, *op. cit.*, p. 147.

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IV. PENAL CONDITIONS

A. General Observations

Americas Watch has noted the disastrous state of Peruvian prisons in earlier reports. Overcrowding, miserable physical conditions, and violence within the prison population are only a few of the conditions that have led, in the past, to riots and hostage-taking orchestrated by security-related prisoners.

It is common for trial delays to last three or four years, while the vast majority of inmates, from the poorest sectors of society, can afford neither legal representation nor bribes to speed up the process. The scarcity of State resources has left recent administrations with few options, although there was an effort, at the beginning of President García's term, to accelerate trial schedules, issue pardons and build new prison facilities in order to reduce overcrowding. One result of this policy was the new maximum-security prison Miguel Castro Castro (popularly known as Canto Grande), where many accused members of *Sendero Luminoso* and the bulk of MRTA prisoners are currently confined. Of the approximately 450 security-related prisoners held in Canto Grande, both men and women, some 80 percent are associated with *Sendero*.

In 1986 we noted that prison conditions combined "neglect and chaos" with the fact that inmates were "very much in control of the inner workings" of the penitentiaries, creating a "formula for disaster."²⁷ The riots on June 18 of that year in three Lima-Callao prisons, led by members of *Sendero Luminoso*, were to some extent a logical outcome of this formula. The riots were also quelled with stunning brutality, as described in section III. The suppression of the prison riots of 1986 was the most massive single instance of the violation of human rights during the García government.

²⁷ Americas Watch, Human Rights in Peru after President García's First Year, *op. cit.*, p. 78.

B. Security-Related Prisoners

One reason for the riots was *Sendero's* opposition to the transfer of its members to the new Canto Grande penitentiary. Since then, however, virtually all *Sendero* inmates, men and women, have been moved to Canto Grande. They receive regular family visits, and their relatives may bring food and other supplementary supplies. In general, the *Sendero* and MRTA inmates of Canto Grande are reported to enjoy marginally better conditions than the common-crime inmates. According to social workers who visit the prison, the *Sendero* inmates have recreated there the internal political organization they had maintained in other prisons when they were more dispersed, and indeed completely control their wing, enforcing discipline, conducting indoctrination classes, and preventing the access of non-*Sendero* prisoners and penal personnel. They have succeeded in having a portion of their food allotment given to them in raw form so that they may cook it, and in May 1990, according to a prison specialist in Lima, the Interior Ministry was coordinating plans to improve the delivery of water and food to Canto Grande -- benefits aimed mainly at *Sendero* prisoners but improving conditions somewhat for the inmate population at large.

Since June 1989, the International Committee of the Red Cross has had access to prisons in Lima and the emergency zone, and since October 1989 an ICRC delegate accompanied by a doctor has visited daily the center of DIRCOTE (the police unit specializing in terrorism cases) in Lima. During 1989 the ICRC visited 1,290 security-related prisoners held in 46 places of confinement in various parts of the country. The admission of the ICRC into the prisons and DIRCOTE is an important step. Equally important, and not yet forthcoming, would be permission for the ICRC to visit military posts and police stations in the emergency zones. Americas Watch urges that the ICRC's access to these places be guaranteed, as one of the most effective measures toward preventing mistreatment in detention and disappearances.

One matter of concern that Americas Watch heard reiterated by several sources during our May 1990 visit to Peru is the practice of imprisoning young people accused of minor, non-violent *Sendero* collaboration, and others whose links to *Sendero* are disputed, in the same wing of Canto Grande as known *Sendero* veterans. In these conditions,

according to lawyers and social workers with some access to the *Sendero* prisoners, minor offenders and innocent persons come under the discipline and influence of *Sendero* leaders, and those who may be reluctant to join in *Sendero's* prison culture fear for their security if they disobey. Moreover, *Sendero* indoctrination often ends by converting the less-converted. "A school for subversion" was one lawyer's description of the Canto Grande conditions, and he among others recommended strongly that the young and those accused of lesser *Sendero*-related offenses be channeled into another facility or a different area of Canto Grande.

C. Lurigancho, May 1990

Lima's prisons must be described as infernal. The problems of poor administration, corruption, underfinancing and lack of control of the interior of the prisons, which we noted in 1986, have worsened with the economic crisis and especially since February 1987. At that time, officials of the National Penitentiary Institute (INPE), which had administered the prison system under the Ministry of Justice, were charged with corruption, and as an emergency measure, the Republican Guard was given authority to maintain order inside the prisons, in effect to replace INPE. This emergency measure has become permanent. The guards who had formerly policed only the perimeter of the prisons became the sole authority there, and as a result conditions have become more violent and corrupt even than in previous years.

This situation is extremely prejudicial to the rights of all the prisoners, but most of all to the common inmates, who lack the high political profile, organized family support, ICRC oversight and internal organization that the security-related prisoners use to protect themselves and maintain morale.

In May 1990, a representative of Americas Watch visited Lurigancho to observe the conditions for common prisoners. Lurigancho was built to hold 1,500 inmates but the current population is close to 6,000. No exact count of prisoners has been made recently; such is the administrative chaos, moreover, that prisoners are sometimes not notified that they have completed sentence, and continue in prison while the authorities believe them to be at liberty. The prison itself is in a state of severe deterioration: more windows are broken than whole in the

cellblocks, the environment inside the buildings is filthy, the yard is strewn with garbage through which some prisoners pick in hopes of finding morsels of food. The water shortage affecting Lima at the time of our visit meant that in Lurigancho, according to an INPE official who accompanied our representative, there was water for only a few minutes in the early morning; the prisoners thus had little water to drink and none to wash with, and were dirty and bedraggled.

The overall decay that is one's first impression of Lurigancho is due in part to lack of resources, in part to corruption that siphons off the few resources dedicated to the prison system, in part to inmates' vandalism. But in large part it is also due directly to the guards' control of the interior of the prison. Inmates, the INPE official and a regular visitor to Lurigancho all told Americas Watch that since 1987 the guards have robbed everything capable of being transported outside the prison and sold. The workshops which used to function in the Industrial Wing have been dismantled; the kitchen stoves provided for the prison no longer function because parts have been stolen -- prisoners now cook for the entire population on kerosene stoves constructed with donated materials. One group of prisoners organizing a workshop to produce brooms has managed to build a few make-shift machines for that purpose, yet one of them must watch the workshop constantly to ensure that guards do not break into it and take away the machinery.

Violence among prisoners is not controlled by the guards; an inmate human rights committee does, however, try to impede violence. The leader of this committee described the guards' contribution to prisoner coexistence as confined to the peddling of drugs to keep inmates distracted. Much of the intra-inmate violence stems from the presence of drug "mafias" in the population, but the guards do not interfere with these.

At the same time, brutality by guards is also uncontrolled. According to the inmate who heads the prisoners' human rights committee, if the guards think an inmate has money they may place him in solitary confinement until he bribes them to get out. In addition, judges who receive prisoner complaints of brutality turn the investigations over to the guards themselves, with predictable results. This inmate told Americas Watch that since 1987 his committee had filed some 200 complaints in the courts against prison guards, and with one exception -- a case in which a

particularly brutal guard was transferred -- he could not think of a complaint which had been effective.

Among prisoners' complaints is the treatment of their visitors. On regular visiting days, relatives are made to wait outside the prison for long periods, and often are allowed to enter only after they pass money to the guards. For these extremely poor people, the bribes they must pay, reportedly 100,000 *intis* (about US \$3.50 in May) for the women and up to three times that much for each male visitor, are a substantial sacrifice. There is no space set aside for visits -- indeed, given the overall condition of the prison, such amenities would seem to belong to a different world -- so prisoners take turns leaving each other alone for visits in the cells.

Guards also rob the food provided for the prison and supplemental food brought by relatives. The prisoners subsist on one meal a day, almost invariably rice. On the day we visited, there was to be chicken with the rice, but very little arrived at the kitchen after passing through the hands of the prison guards. Rampant malnutrition contributes to a high incidence of tuberculosis; at the time of our May visit, the medical staff in a special isolation area said they were treating 110 active cases, and that many inmates could only recover temporarily because of their weakened state. Between the medical and INPE staff and the inmates a certain solidarity exists due to their common opposition to the guards and their common despair over the lack of basic resources and services.

The prison hospital is a clear example of the dual problem of abused authority and lack of State funds. In the hospital building, which has no water and no electricity for its x-ray and surgical equipment, an inmate had been stationed on the roof to make sure that guards did not rob the few medicines in the dispensary. Those medicines had been donated; there is no budget to provide the most basic medicines, and prison doctors said this holds true for Canto Grande as well. The hospital building boasts a clean new surgical wing which has never functioned due to lack of water and electricity. It also houses psychiatric patients for whom there is no psychiatrist and who wander about aimlessly in the dark passageways of the hospital basement. INPE had been on strike for three months when we visited -- another victim of the economic crisis -- so the hospital staff consisted of one doctor, who lacked the most minimal resources to treat his seriously ill patients.

Experts with whom Americas Watch consulted on the conditions in Lima's prisons were unanimous in saying that before 1987 the prison situation had been critical, and that INPE indeed was corrupt, but that in the last three years the conditions had become truly desperate. All concurred in recommending that, as an urgent matter, the guards be withdrawn from the interior of the prisons and that both INPE and the guards be brought under a single ministry of the government, the Ministry of Justice. The division of authority which currently applies, with the Interior Ministry responsible for the guards and the Justice Ministry responsible for INPE, is an administrative tangle that promotes inertia and lack of oversight, to say nothing of the inmates' suffering.

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V. CONGRESSIONAL INVESTIGATIONS OF HUMAN RIGHTS ABUSES

The multiple strains on the Peruvian court system -- under-financing, corruption, a lack of coherent legislative projects from the government, pressure from government on politically sensitive issues, and hostility from the military on human rights cases -- make the courts an unlikely source of truth about human rights abuses or of critical judgment into the sources of those abuses. Thus the role of special parliamentary commissions of inquiry has been important in recent years.

Unfortunately, some of these commissions have been unable to produce unanimous conclusions, and the divisions of opinion have run along party lines, with members of the ruling APRA party protecting the government's image. The investigation carried out by the Bernal Commission, whose report we summarize in section II, does not appear to have fallen victim to these problems. But the praiseworthy research of the Senate's Ames Commission, whose 1987 reports shed light on the June 1986 prison massacres, was undermined by the refusal of commission members of the governing party to publish conclusions critical of government officials.

During 1989, two parliamentary commissions treating human rights issues produced disappointing results. The government's increasing defensiveness on human rights was reflected in the conduct of the ruling party's members on these commissions. Important opportunities were lost to clarify, in one case, military responsibility for a massacre in Ayacucho and, in the other, suspected links between APRA party members and officials and paramilitary activity. The results of these inquiries constitute a serious evasion of public responsibility, and the fault for this lies with the party of Alan García.

A. The Melgar Commission: Cayara

On May 14, 1988, the day after a *Sendero* ambush against an Army patrol in a nearby village, army soldiers entered Cayara, province of Cangallo, Ayacucho and, with gunshot, bayonets and farming tools, killed between 28 and 31 of the male residents of the hamlet. On May 18, the Army returned and arrested more villagers, some of whom disappeared; the bodies of three were found in early August. The government first attempted

to deny that the massacre had taken place, but then the Office of the Prosecutor General's special prosecutor for disappearances in Ayacucho, Carlos Escobar Piñeda, was authorized to go to the site.

Among the difficulties facing Escobar was that, although soldiers had initially buried the corpses near the village, by the time Escobar and his team arrived in Cayara these remains had been moved. Nonetheless, in examining the early graves, and the bloodstains and hair he found there, Escobar was able to verify that killings had taken place.

On June 29, 1988, two of the witnesses cooperating with Escobar were arrested by the army in Cayara and have since "disappeared."

In August, when the three additional bodies were found, Escobar examined and identified them; they included a woman, Jovita García Suárez, pregnant at the time of her death, for whom the cause of death may have been either a shattered cranium or a stab wound to the heart. Escobar and his team were able to carry back and have an autopsy conducted on only the one body. The others were left behind and later were clandestinely removed from the site. But his initial examinations confirmed that all three had been among those detained and taken away by the army on May 18. Based on his investigation Escobar concluded that 29 peasants had been murdered and 44 disappeared in the Cayara incidents.

Investigative commissions were constituted in both houses of Congress, with members appointed on May 23, 1988. In both houses, members of APRA, the ruling party, were named to preside. Both, and Senator Carlos Enrique Melgar in particular, deliberately slowed the pace of the inquiries, such that, when we published our last report in October 1988, no findings had been released by either panel.

Melgar's attitude toward prosecutor Escobar was consistently hostile. When the two bodies of the May 18 detainees disappeared, Senator Melgar accused Escobar of conducting an illegal exhumation. At a meeting with Escobar, Melgar spent most of the time questioning the prosecutor's credentials. At that meeting, Escobar acceded to a request from Senator Melgar for the names of witnesses, which had been kept strictly confidential up to that time. A few days later, five persons were arrested by the army in Cayara and subsequently disappeared, one of whom was a key witness to the massacre. Melgar himself did not interview witnesses because, he said, he

was not "a *chulillo* of theirs to go around running after witnesses."²⁸ On his visit to Ayacucho, which he delayed until mid-June, Melgar and his delegation talked mainly to military authorities and avoided witnesses.

By September 1988, Carlos Escobar was receiving such serious threats to his life that he was obliged to move about constantly. He was not given any police protection, however, nor did the government offer its public political support to his inquiry. Quite to the contrary, in October 1988 the *Fiscal de la Nación* (Prosecutor General) ordered him to issue a final report and the case was transferred to a provincial prosecutor in Cangallo. In November and December 1988 Escobar was summoned to appear before the Melgar Commission to answer hostile questions about his conduct of the investigation. His final report had recommended that charges be filed against the Political-Military Commander of the zone, Army Gen. José Valdivia Dueñas, but this was not done. Rather, the provincial prosecutor who received the case ordered it closed.

In December 1988, three witnesses to the massacre who had cooperated with Escobar's investigation, including the mayor of Cayara, were shot to death at an army roadblock.

The majority report of the Melgar Commission was issued in May 1989. It was signed by the APRA members of the Commission only. The majority concluded "categorically that there was no abuse on the part of military personnel in Cayara..." The report proposed that a legal action be initiated against prosecutor Escobar for misconduct of the investigation. And the majority expressed their congratulations to the Political-Military Command of Ayacucho during 1988, "for its efficient work and spirit of struggle in the task of pacifying the area under their responsibility, a mission they fully achieved, respecting the legal order of the nation."²⁹

²⁸ *LA REPÚBLICA*, JUNE 30, 1988. SEE FOOTNOTE, P. 67, AMERICAS WATCH, *TOLERATING ABUSES...*, OP. CIT. *CHULLILLO* IS A PEJORATIVE TERM REFERRING TO INHABITANTS OF THE ANDES.

²⁹ QUOTED IN IDL, *EN LA ESPIRAL DE VIOLENCIA*, OP. CIT., P. 149.

There were two minority reports: one by Senator Navarro Grau, a political independent, who did not consider it possible to determine whether the army had been responsible for any crime in Cayara, and another by opposition Senators Mohme and Diez Canseco. The latter report concludes that the massacre was "indisputably" the responsibility of the Political-Military Commander of the zone at that time, Army Gen. José Valdivia Dueñas, and of the soldiers who carried out the killings. Further, the report states that "everything leads to the supposition that facing the public denunciation of the massacre, the Political-Military Command of Ayacucho took a decision to make the evidence disappear."³⁰

In September 1989, the nurse Marta Crisóstomo García was taken from her house by eight men wearing hoods and army uniforms and shot dead. She was the ninth witness to the massacre to have been executed or disappeared. She had identified her relative, Jovita García Suárez, and had testified to Jovita's arrest by security forces. Marta Crisóstomo had been receiving threats for several months prior to her assassination, but had not been afforded protection; indeed she had been transferred to a job in a location that made her more vulnerable to attacks. The army was reportedly seeking a tenth witness, in Cayara, who was forced to flee.

The outcry over the cover-up of Cayara became such that the case was reopened, by order of the Prosecutor General's office, in late August 1989. In the hands of the prosecutor of the province of Victor Fajardo, Ayacucho, no progress was made, and in January 1990 the case was definitively closed.

Meanwhile, prosecutor Carlos Escobar, whose work in Ayacucho led to the reappearance of dozens of disappeared persons and whose investigation into Cayara made it possible for the Peruvian public to believe briefly in accountability, was forced to leave Peru in November 1989 because of threats to his life.

³⁰ *Ibid.*

B. The Limo Commission: Paramilitary Violence

This commission, created in the Chamber of Deputies in June 1989, grew out of public concern about paramilitary violence and, in particular, the assassinations of two deputies, Eriberto Arroyo Mío and Pablo Li Ormeño. The initiative for its formation came from United Left deputy Manuel Piqueras, but rather than name an opposition figure to head the panel, the APRA majority in the Chamber chose deputy Abdón Vélchez Melo, a member of their own party. The Commission's mandate was to investigate the killings of the two deputies and the overall activity of "terrorist groups named after martyrs", in particular the *Comando Democrático Rodrigo Franco*.

Deputy Vélchez resigned in August in order to take another post, and was replaced by APRA Deputy César Limo Quiñones. In its preliminary report, in late August, the Commission cited 137 documented cases of violence by paramilitary groups, beginning with the July 1988 assassination of the lawyer Manuel Febres Flores, who had defended well-known *Senderistas*.³¹ Of the several groups that had proclaimed their existence, the Commission believed that only two, the *Comando Rodrigo Franco* and the *Comando Manuel Santana Chiri*, were real organizations. Of the 137 cases noted in the preliminary report, 65 were attributed to the *Comando Rodrigo Franco*, five to other groupings, six to presumed political kidnappings, ten to agents of the National Police or Armed Forces, and the remainder were cases of arms possession or attacks. Paramilitary activity had been evident in several departments, but Lima presented the most cases, followed by Ayacucho. The Commission had also uncovered fifteen cases of paramilitary group activity between 1985 and 1987.

With regard to the absence of police investigations into the phenomenon, the report stated: "Everything indicates that there exists either an intentional attitude to not investigate these events or a dangerous operative inefficiency on the part of the entities responsible to confront this

³¹ SEE AMERICAS WATCH, TOLERATING ABUSES..., OP. CIT., P. 52.

terrorist activity."³²

³² QUOTED IN IDL, EN LA ESPIRAL DE VIOLENCIA, OP. CIT., P. 164.

At this point, political pressures became acute. Interior Minister Mantilla sent a letter to the Commission protesting that "the campaign of calumny...of which I am the object is being generated from within the Commission..."³³ and sought the disqualification of United Left deputy Gustavo Espinoza as a member of the Commission. Mantilla's name had, indeed, frequently been associated with the *Comando Rodrigo Franco*. Commission chairman Limo then expressed publicly his opinion that the existence of the *Comando Rodrigo Franco* had not been proven, but that he suspected the existence of a paramilitary group linked to the left.

During the course of the Commission, members received threats, and the daughter of Manuel Piqueras, the deputy whose initiative had led to the Commission's creation, was briefly kidnapped by unknowns who threatened her father.

As the Commission continued its work in September 1989, the testimony of a supposed deserter from the *Comando Rodrigo Franco* was published in the magazine *Oiga*, which frequently represents the views of the hard-line within the armed forces. According to this account, the *Comando Rodrigo Franco* began recruitment as early as 1983 and was an organization completely identified with the APRA party, while Agustín Mantilla had been one of its founders and principal figures, in close coordination with the National Police.

The investigation took a turn in late September 1989 with the arrest of Jesús Miguel Ríos Sáenz, the only survivor of an October 1987 bombing attack on the *Senderista* newspaper *El Diario*. In that incident, the two other perpetrators had been killed and Ríos was wounded; all were members of APRA. Ríos' arrest and appearance had been sought by the Commission for months. But he was brought before the commission members without warning, right after his surprise arrest, and immediately after his appearance was set free. He denied knowing Mantilla or even being a member of APRA -- a statement that Mantilla himself contradicted. Although Ríos' testimony contained such basic contradictions, and although he refused to speak about certain known facts, commission chairman Limo announced that he considered Ríos honest and believed Ríos to have been a victim, not a

³³ *Ibid.*

perpetrator, of the October 1987 bomb attack on *El Diario*.

The Ríos case suggests the complexity of the paramilitary phenomenon in the context of Peruvian democracy. After the bombing in 1987, Ríos, gravely wounded, was treated in the Police Hospital, but his medical record -- for which he used a false name -- later disappeared. Ríos had been photographed with Alan García while the APRA candidate was campaigning for President. The car driven by the *El Diario* attackers had been traced to Augusto Callejas, chief of logistics in the Ministry of Interior.

Before opposition members of the Commission could call Ríos for another appearance, or seek testimony from Callejas, chairman Limo ended the investigation. Limo himself did not produce a majority report. He did, however, suggest that the opposition deputies Manuel Piqueras, Gustavo Espinoza, and Celso Sotomarino, who presented a minority report, were echoing assertions of the MRTA guerrillas' organ, *Cambio*. This innuendo, like Limo's earlier statements about possible leftist paramilitary activity, attempted to distract public attention from criticism of the APRA.

The minority report accused Interior Minister Mantilla, as well as two active-duty generals and one retired general, of being the key figures in the *Comando Rodrigo Franco*. It also urged that the APRA distance itself from the "individual practices of some of its militants" as a means to diminish violence in the country.

The outcome of the special commission, because of the government's failure to cooperate, was a lost opportunity to investigate a troubling and apparently uncontrolled source of violence. While it was useful to focus attention on the paramilitary groups, and the *Comando Rodrigo Franco* in particular, a thorough inquiry still remains to be done, backed by the government's political will to halt the activity of these groups.

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| VI. VIOLATIONS OF THE LAWS | |
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VI. VIOLATIONS OF THE LAWS OF WAR BY INSURGENTS

The standards set forth in Common Article 3 of the four Geneva Conventions of 1949 explicitly address conflicts that are not of an international character. Americas Watch applies these standards where insurgent forces do not exercise extensive control over population or territory, as is the case in Peru.³⁴

The minimum rules contained in Common Article 3 stipulate that persons taking no active part in the hostilities, including members of the armed forces who have laid down their arms or have been placed *hors de combat* for any reason, shall be treated humanely in all circumstances. Common Article 3 therefore prohibits, in the treatment of such persons: "(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment or torture; (b) taking of hostages; (c) outrages upon personal dignity, in particular humiliating and degrading treatment; [and] (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples."

The text of Common Article 3 explains that application of the article does not affect the legal status of the parties to a conflict, and Americas Watch, in applying this standard, does not confer any special status on the insurgent forces in Peru.

Both *Sendero Luminoso* and the MRTA have violated Common Article 3; *Sendero*, indeed, kills many more unarmed persons than soldiers in combat. Americas Watch condemns these acts in the strongest possible terms.

³⁴ Protocol II of 1977, which is a more detailed instrument covering internal conflicts or civil wars, does not apply to the Peruvian situation, in our view, because of its rigorous requirements as to control of population and territory by an insurgent force.

A. Background: Areas of Insurgent Activity

During 1989 the conflict spread to new areas of Peru, becoming particularly active in the eastern and central departments of Ucayali and Junín as well as in the north-central departments of San Martín and Huánuco, which contain the area known as the Upper Huallaga Valley.³⁵ In eight of the nation's 24 departments, there was intense conflict, and in parts of four more there was a perceptible increase in political violence. For example, the coastal department of Ancash and the southeastern Puno department were both areas that, while they did not come under state of emergency, saw a significant increase of insurgent actions. And Lima itself was the target of about one-third of violent actions by insurgent groups during the year, the majority of these being acts of sabotage or political actions accompanied by intimidation.

By the end of 1989, *Sendero Luminoso* was active in 21 departments; the most frequent estimate of its strength was 3,000 fighters.³⁶ MRTA and *Sendero* confronted one another in Junín, and MRTA was also responsible for actions on the coast, in Huánuco, and elsewhere. It is important to note, however, that although the insurgent presence spread over more territory, neither *Sendero*, and even less the MRTA, had the military capacity to engage directly with the armed forces except through lightning attacks or ambushes; their reliance on terror was a compensation for this relative weakness. The exception to this rule was *Sendero's* activity in the Upper Huallaga during the first half of 1989, the first example of *Sendero's* deploying regular combat columns and engaging in prolonged battles with the army. After July, however, this was no longer possible due to all-out retaliation by the army. In general, during 1989 *Sendero* engaged in fewer direct confrontations with the military and

³⁵ A discussion of the history of coca cultivation and the insurgency in the Upper Huallaga is found in Section IX below.

³⁶ This number may currently be lower, given that in early 1990 there appeared to be some important desertions from *Sendero* as well as numerous battle casualties. These factors may have contributed to *Sendero's* inability to enforce its boycott of the June 10, 1990 elections.

increased its attacks on the *campesino* population, in areas where villagers resisted *Sendero's* presence.

Important regional differences presented the insurgent groups with varying degrees of support and resistance from the population. *Sendero's* continuing attempts to penetrate into Puno department, for example, were strongly resisted by the well-organized *campesino* movement and the regional Church that supports *campesino* demands. *Sendero* had more success in Junín, a crucial area; Lima's food supplies and principal source of electricity, as well as the major mines of Peru, are concentrated there. Junín's social fabric is complex, as the department includes not only developed sectors such as mines and industry but also *campesinos*. Junín had been considered relatively immune to *Sendero* because of its level of commercial and social development, so different from the extreme isolation of Ayacucho and the other departments of long-standing *Sendero* activity. Although *Sendero* did not receive much *campesino* support in Junín, neither was the population able to repel it. In the neighboring department of Pasco, too, in the area of the Pichis, Ene and Palcazu Rivers, where indigenous groups co-exist with migrants from the Ayacucho-Apurímac emergency zone and with expanding production of coca, *Sendero* became more active.

In Ayacucho, *Sendero's* original stronghold, there were some signs that the population was becoming sufficiently organized against the insurgency to present it with difficulties, and that it had become exhausted by *Sendero*. For example, *Sendero's paros armados* (days of forced work stoppage, enforced by threats) were not completely successful; and villages in some parts of Ayacucho voluntarily formed self-defense *rondas campesinas* or patrols in opposition to *Sendero*. Nonetheless, *Sendero* presence in Ayacucho, as in neighboring Apurímac and Huancavelica, remained strong.

In early 1990 there were some signs of internal tensions within *Sendero*, reportedly due to a difference of emphasis as between purely military strategy or one combining military and political tactics. Observers in Peru were divided as to how seriously these signs -- such as reported division among the *Sendero* prisoners in Canto Grande -- should be taken.

MRTA is a more traditionally leftist insurgent group, which began as an urban guerrilla movement in the 1960s. It has a certain base of

support among the poor in Lima -- where *Sendero* has encountered more resistance among the urban poor and labor -- but it lags well behind *Sendero* in its presence in rural Peru. A Ministry of Interior statement in June 1989 indicated that the MRTA was active in the northern part of San Martín department and nearby provinces in the department of Loreto, as well as the jungle areas of Huánuco, Pasco and Junín and the area around Pucallpa in Ucayali department.

B. Violations by *Sendero Luminoso*

During 1989 and early 1990, *Sendero* was responsible for selective assassinations, group killings, kidnappings, and an indeterminable number of threats of death and other acts of intimidation against unarmed civilians and peasants organized for self-defense. Its principal targets were representatives of the State, leaders of *campesino* and labor organizations, and peasant communities in areas where it sought to establish or maintain control. These practices of *Sendero Luminoso* were consistent with the insurgents' tactics in years past. There can be no question that murder of the defenseless, often carried out in a grotesque fashion, is a policy of *Sendero Luminoso*.

In 1989, *Sendero* continued systematically to undermine the presence of the State in its areas of action, targeting especially mayors, governors and the personnel of development programs. A study done by the human rights group *Comisión de Derechos Humanos* (COMISEDH) on the first seven months of 1989 details the assassinations of 25 mayors by *Sendero* in the departments of Lima, Junín, San Martín, Pasco, Cajamarca, Puno, La Libertad, Huánuco, Ancash, Ucayali and Huancavelica. During the same period, *Sendero* assassinated 10 governors and lieutenant-governors, six engineers and officials of development projects, seven judicial officials and 19 other public officials, according to the COMISEDH study.³⁷ From January through October, 46 mayors were killed by *Sendero*, and a further 263, facing death threats, resigned.³⁸ The

³⁷ COMISEDH, "*Violencia Política en el Perú, Enero a Julio de 1989*", October 1989, Lima, pp. 12-13.

³⁸ Andean Commission of Jurists, "*Informativo Andino*", Lima, November 9,

total number of mayors assassinated by *Sendero* by the end of 1989 was 52.

Persons not holding public office, but known to be active in their political party, were also victimized. Thus, while he was giving an examination to 40 students on May 29, 1989, the classroom of professor Marcial Capelletti Cisneros, in the San Cristóbal University of Huamanga, Ayacucho, was invaded by three armed members of *Sendero*, who shot him twice. Capelletti was the brother of an APRA deputy and worked closely with the party but was a full-time teacher at the university. Operating on similar logic, *Sendero* members took over a day care center in Chimbote, department of Ancash, on October 10 and, rounding up the teachers, threatened to kill the children of local APRA members and politicians.

The height of the *Sendero* campaign against representatives of the State in 1989 was the period leading up to the November 12 municipal elections. In the areas where it was active, *Sendero* assassinated mayors, mayoral candidates and their immediate relatives, and local electoral officials. While candidates of all major parties were victimized, *Sendero* appeared to concentrate in particular on representatives of the United Left coalition, which it considers a rival for the loyalties of organized labor and *campesinos*.

Among the most notorious cases was the September 19, 1989 assassination of Fermín Azparrent Taype, mayor of the city of Huamanga, capital of the department of Ayacucho. Azparrent, representing the United Left, had organized neighborhoods in Huamanga to resist the *paros armados* (armed stoppages) promoted by *Sendero* in 1988; he was also outspoken in denouncing abuses of human rights by the military. As a result, he told the press a few weeks before his murder, he had already suffered seven attempts on his life: four by *Sendero* and three by the *Comando Rodrigo Franco*. *Sendero* took credit for the assassination -- something it rarely does -- through a communiqué that called Azparrent an "agent of Russian social imperialism and servant of the APRA government, whose execution is a severe warning to those who wish to be

1989, p.7.

candidates in the electoral farce."³⁹

The funeral for Azparrent, attended by more than 5,000 residents of Huamanga, transformed itself into a march for peace. Nevertheless, all candidates for mayor but one, resigned due to threats by *Sendero*; the remaining candidate was attacked by *Sendero* on October 25 but survived.

After the elections, there were *Sendero* reprisals against the newly-elected authorities. Some were killed, others resigned under threat of death. *Sendero* also took revenge, especially in rural areas, against those who had voted in November. A typical case occurred on December 21, 1989, in the village of Pallqa, district of Sacsamarca, within Ayacucho department. A group of some seventy *Senderistas* entered the village and murdered eleven *campesinos* for having voted, first cutting them with machetes and finally executing them by gunshot, in the presence of their families.

Sendero's expansion into new areas, and its control of old ones, was often contested by peasants. Where it found resistance among *campesino* organizations, *Sendero* set about executing leaders of those organizations. Thus, in the first seven months of 1989, *Sendero* assassinated 47 community leaders, most of them leaders of peasant communities.⁴⁰ In a number of cases, where resistance was expressed through the organization of *rondas campesinas* or community self-defense patrols, *Sendero* made these patrols a special target.⁴¹

Some or all of these elements are present in the following examples of *Sendero* executions:

o On April 12, 1989 in the province of Chongos Alto, department of Junín, a column of 50-60 *Senderistas*

³⁹ Grupo de Trabajo de la Coordinadora Nacional de los Derechos Humanos, "Boletín Informativo," Lima, October 1989, pp. 2-3.

⁴⁰ COMISEDH, "Violencia Política en el Perú," *op. cit.* p. 12.

⁴¹ Some *rondas* are imposed by the military, while others are organized by the communities themselves. See section VII.

split into two groups for a coordinated action: one group attacked a bus on its way to Huancayo, the departmental capital, and detained some twenty passengers, whose documents they examined and compared with a list they carried; the other group took the town of Chongos Alto, the provincial seat, and rounded up a number of people who were residents of various nearby towns. The two *Sendero* groups reunited in Chongos Alto to hold trial. Accusing their more than 20 detainees of wanting to organize *rondas campesinas*, of being representatives of "the old State," they separated 12 persons on their list, who were former or current local authorities, "sentenced" them and shot them in the head or in the back. Those who had not been killed, were forced to set fire to the town meeting center and the local clinic.

o A series of coordinated attacks, on December 11, 1989 left 50 Ayacucho peasants dead, clearly in response to the formation of *rondas campesinas* in the provinces of La Mar and Huamanga. In the district of Vinchos, Huamanga province, *Sendero* simultaneously took three communities and assassinated dozens of peasants in the presence of their neighbors and relatives. One account put the total dead at 39 in the communities of Paccha, Andabamba and Chaquispampa and described the weapons used as firearms, sticks and stones. Other sources concur on number of deaths but suggest that in 16 cases, and possibly all, the victims' throats were slit. In La Mar province, another *Sendero* contingent attacked the communities of Vicus and Tanyac, in Tambo district, searching house to house for members of the self-defense patrols and rounding these up in the central square. Eleven people were executed, including the president of the *rondas* for the area.

o On April 12, 1990 *Sendero* attacked the village

of Naylamp de Sonomoro, a hamlet in the district of Mazamari, Satipo province, Junín. (The background to this incident is described below, in the section on self-defense patrols.) According to agricultural specialists who visit the zone, *Sendero* entered the village in a column composed of men, women and children. The men first sought out specific people and executed them; then the women and children killed others. Then they burned the houses and the bodies. Some 35 Naylamp residents were murdered, and 26 wounded, according to these sources; some bodies were burned beyond recognition.

Sendero also murdered members of the police force whom they had captured and disarmed. An incident which outraged public opinion occurred on March 27, 1989, at the police post in Uchiza, Mariscal Cáceres province, San Martín department. The post, established less than a month before, was manned by 57 police led by Maj. Carlos Farfán Cárdenas. *Sendero* attacked with mortars and set fire to the post, and a five-hour battle ensued, during which Maj. Farfán requested help from the Santa Lucía anti-drug base nearby. Although his call was heard all the way up the line of command, and the Ministry of Defense tried in a variety of ways to send reinforcements, a combination of factors prevented any help from being sent, and *Sendero* took over the post. After the police had surrendered, the insurgents identified the officers and separated them from their subordinates, then called the population of Uchiza into the main square, held a "popular trial" and executed the police officers. Maj. Farfán was first forced to raise the flag of the hammer and sickle over the town square and then murdered. According to the *Sendero* newspaper, *El Diario*, Farfán "was executed...by a child combatant nine years old, who shot him in the head."⁴² The same source, however, also stated that the

⁴² Americas Watch has received various reports of *Sendero* kidnappings of young boys and of *Sendero* "columns" which have included many young boys. In conjunction with these reports, we note the presence of children in the *Sendero* column that attacked Naylamp de Sonomoro, as described above.

major's throat was slit.⁴³

The conflict in the Upper Huallaga -- the coca-growing region where the police post was located -- put that area virtually off limits to journalists, but on November 17, 1989 an American free-lance reporter, Todd Smith, traveled from the U.S. anti-drug base in Santa Lucía to Uchiza, without army protection. His body was found on November 21 near Uchiza's main square; he had been killed by strangulation, and a note signed by *Sendero Luminoso* had been left on his body. There was some doubt as to the sequence of events leading to his death, as it was suspected that drug traffickers may also have played a role; *Sendero* is believed to have been involved at least in kidnapping Smith and perhaps in executing him. This was not the first killing of a journalist in which *Sendero* had been implicated during 1989. On January 26, Luis Piccone, a Peruvian journalist working with *Radio Independencia*, was shot by a gunman believed to be a member of *Sendero*, in Ica, south of Lima. On April 16, presumed *Senderistas* killed Austrian journalist Josef Peischer, press director for a development project in Ucayali, accusing him of being a CIA agent. And on May 31 in Huancavelica, *Sendero* beat to death Peru's foremost environmental journalist, Barbara D'Achille, who had been working for the Lima daily *El Comercio*. One of her traveling companions, engineer Esteban Bohórquez, was shot and killed.

In 1990, for the Presidential and parliamentary elections of April 8, *Sendero* again threatened the lives of candidates and voters. On March 17, Interior Minister Agustín Mantilla revealed intelligence of a *Sendero* plan to assassinate candidates of all political tendencies. As of March 28, police and military protection was given to the nearly 3,500 candidates, and life insurance was given to voting officials. The Elections Commission decided not to require the inking of voters' fingers after they voted in emergency zones, to prevent reprisals by *Sendero*.

Sendero nevertheless launched a campaign of executions. The day before the elections, for example, *Sendero* attacked the village of Pampachacra, in Ayacucho, and executed 17 people, most of them old people, women and children who remained at home while other residents

⁴³ IDL, *En la Espiral de Violencia*, op. cit., p. 65.

had left for the voting places. *Sendero* blacked out Lima on April 11, 1990, and took advantage of the darkness to assassinate a policeman and a labor leader. On April 17 the former mayor of Chiquián, in Ancash department, was executed by presumed *Senderistas*. A "liquidation squad" of *Sendero* assassinated two policemen in Lima on April 26. The weeks before and following the April 8, 1990 elections, according to Senator Bernales of the Senate's commission on violence in Peru, were "the most violent of the decade" because of actions such as these.⁴⁴

C. Violations by the *Movimiento Revolucionario Tupac Amaru*

During 1989 and early 1990 the MRTA carried out one spectacular and prolonged kidnapping, assassinated a former minister of the government and engaged in selective executions. Although the scope of their actions is not to be compared to *Sendero's*, the actions themselves are equally condemnable. The MRTA was having difficulty in presenting itself as the armed front of the social movements of the poor, which rejected this association; it also suffered military setbacks at the hands of the army and police. These two factors may have contributed to its engaging in terrorist acts that, in earlier years, it had avoided.

Some examples:

- o On March 3, 1989, members of the MRTA assassinated the mayor of Pillhuana, near Tarapoto in San Martín department, as well as the governor and the judge for the area.

- o In the area of Tarapoto, and Pucallpa in Ucayali department, the MRTA targeted people they considered bad social influences. MRTA flyers circulated in poor urban neighborhoods condemning to death all homosexuals, drug addicts, and prostitutes, and in May 1989, eight presumed delinquents were murdered in

⁴⁴ Quoted in Andean Commission of Jurists, "*Informativo Andino*", Lima, May 7, 1990, p. 5.

Tarapoto, with the MRTA taking credit and justifying the murders as a measure against crime.

- o The group threatened popular leaders in San Martín department, leading up to its execution of Julio César Sánchez Vela, general secretary of the Educational Workers Union and president of a broad front of popular organizations in Shapaja, on November 4.

- o Héctor Delgado Parker, a powerful businessman and close personal friend of President García, was kidnapped by MRTA on October 4, 1989 and not released until seven months later. Delgado's chauffeur was shot to death during the kidnapping and his bodyguards were wounded.

- o On December 8, 1989, the MRTA assassinated Alejandro Calderón Espinoza, president of an organization, ANAP, which represents Ashaninka indigenous communities around the Pichis River in Pasco. In the same incident, two Ashaninka villagers were kidnapped, and later executed. The MRTA accused Calderón and the others of having, 25 years previously, turned over to the army a guerrilla leader, Máximo Velando of MIR, which was then active in the area. In addition, the MRTA accused Calderón, who had close ties with the military, of being a key to the military's plans to form local paramilitary groups. The killing of Calderón set off a chain of violent events and backfired on the MRTA both politically and militarily -- a portion of the Ashaninka population went on a rampage, apparently with army and navy support, in search of MRTA suspects⁴⁵ -- such that the MRTA later publicly regretted the action.

⁴⁵ For a more detailed discussion of these events, see Section VII below, on self-defense patrols.

o The MRTA assassinated a former Defense Minister, retired Army Gen. Enrique López Albújar Trint, on January 9, 1990 in Lima's San Isidro district, accusing him of involvement in an April 1989 confrontation in Jauja, Junín, in which 62 MRTA members and others died, allegedly in "combat" with the armed forces, without leaving any wounded or survivors.⁴⁶ General López Albújar was the Defense Minister at the time of those killings. His assassination was a clear violation of the laws of war, as retired military officers are no longer taking active part in the conflict, and it also was an act of extreme provocation of the military, one that could have resulted in a reaction against democratic institutions.

⁴⁶ See section VII.

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VII. HUMAN RIGHTS VIOLATIONS IN 1989 AND 1990

—A. Background: Army and Police in State of Emergency

By the end of 1989, nine of Peru's 24 departments, and part of a tenth, were being governed under state of emergency. Thus, the rights to free assembly, free movement, and inviolability of the home were suspended for 47 percent of the Peruvian population. Moreover, as the U.S. Department of State summarized the situation during 1989, "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."⁴⁷

The model for emergency authority in Peru is the Political-Military Command first established in Ayacucho. The PMC for each emergency zone, which may comprise more than one department, is commanded by an army general who holds the post for a term of one year. The police come under the PMC's overall authority, as do civilian government personnel. Proposals to strengthen civilian authority in the emergency zones are frequently made in Peru, but no progress is noticeable since our last report. If anything, the intensification of terror and the spread of the conflict have thinned the ranks of elected officials, judges, prosecutors and other civilians who might provide a counterbalance to the army's overbearing and abusive practices. For example, Manuel Espinoza, the provincial mayor for Leoncio Prado, department of Huánuco, was the last mayor active in the entire province until he was assassinated by *Sendero Luminoso* on June 15, 1989. Nor do conditions permit journalists to report systematically from emergency zones; the work is too dangerous in many places, and the PMC does not generally welcome reporters. The press is forced to rely on military accounts of confrontations with the insurgency, and on the military's

⁴⁷ U.S. Department of State, Country Reports on Human Rights Practices for 1989: Report Submitted to the Committee on Foreign Affairs, House of Representatives and the Committee on Foreign Relations, U.S. Senate by the Department of State, Washington, D.C., February 1990, p. 708.

definition of the dead.

We have noted in past reports the Peruvian army's abusive treatment of the population in the emergency zone. The army's aggressiveness toward rural civilians goes along with a general failure to protect that population from *Sendero* terror. Peasant communities frequently call for more army and police presence, even while complaining of mistreatment by official forces. The army in rural emergency zones has little relationship with civilian communities except as an occupying force, because army patrols tend to be rapid operations; soldiers are reluctant to risk a *Sendero* ambush. After these operations, the military retire to their barracks and leave the population to *Sendero* reprisals. Another factor in the distance between the military and population, in the emergency zones, is that historically most soldiers come from the coastal areas and lack either knowledge of or sympathy for the racially, linguistically and culturally different people of the interior.

During 1989 and early 1990 the bulk of human rights violations by official and officially-tolerated forces continued to occur in the emergency zones, but there were also serious abuses in other areas -- the departments of Ancash and Puno, for example -- and the victims, although still predominantly *campesinos*, also included labor leaders, students and professionals. Apart from abuses associated with the rural counterinsurgency campaign, a notable development was the wider use of force by police who, sometimes in conjunction with the military, suppressed peaceful protest gatherings, conducted wholesale arrests in poor Lima neighborhoods in the wake of *Sendero* actions and invaded several universities in search of *Sendero* sympathizers.

Those arrested in sweeps were generally held no longer than the fifteen days allowed by law in cases of suspected terrorism, according to Peruvian human rights monitors; this represents some improvement over past practices of holding detainees for long periods under manifestly unfounded charges of terrorism. But the scope of these arrests is cause for concern, mistreatment during and after arrest in such cases is routine and, according to these same sources, there have been cases in which detainees have obtained their freedom only after paying the necessary bribe.

Police forces were reorganized during 1989 and united under a joint National Police command. The police service in charge of

investigating crimes and preparing sworn statements of the accused before they are tried -- formerly called the *Policía de Investigaciones* (PIP) -- was renamed the *Policía Técnica*.

Alan García's government defined 1989 as the year of all-out effort against *Sendero*. It called on the population to identify itself with the effort to combat subversion and terrorism by supporting the army and police and, in rural zones of emergency, by forming community self-defense patrols. At the same time, the government's defense of the military and police translated into a policy of impunity that seriously undermined public confidence. Paramilitary groups murdered labor leaders and politicians while the police were notoriously unable to discover the culprits. In rural areas the *rondas campesinas* or self-defense patrols proliferated with complex and often bloody results, increasing the problem of analyzing whether *campesino* dead should be considered combat casualties or victims of extrajudicial execution.

B. Suppression of Peaceful Protest

The economic crisis led, throughout 1989, to organized protests by *campesino* movements and labor. These legal and peaceful manifestations of discontent were frequently suppressed, including those which involved the right to strike.

On February 1, 1989, for example, hundreds of workers from various unions demonstrated in Lima to protest a package of price increases announced the day before. About fifty were arrested. Six days later, State employees demonstrated in Lima over economic demands; this sector has been one of the most affected by the collapse of real wages, with a fall in real wages for 1989 of almost 50 percent.⁴⁸ The demonstration was violently suppressed by police, leaving five wounded and 35 detained.

Similar tactics produced eight dead, dozens of wounded and some 350 detainees in Pucallpa, Ucayali on February 9. A peasant gathering called in support of an ongoing general strike by *campesinos* in the eastern

⁴⁸ Exact figure, 49.8 percent. National Statistics Institute (INE), cited in IDL, *En la Espiral de Violencia*, *op. cit.* p. 14.

departments of the country was attacked by police, who shot into the crowd. Among those detained was the secretary general of the Departmental Federation of *campesinos*. Many of the detained were forcibly removed from places where they had taken refuge from police gunfire. The Ministry of Interior, in a communique issued the same day, stated that the gathering had been the work of agitators and that police had been forced to fire after those agitators had overturned a police car and attacked its occupants. A video-tape of the events showed clearly that this version was untrue, that the gathering was proceeding peacefully when police opened fire.

Civil construction workers in Lima demanding wage increases decided to mount a demonstration on July 6, to protest the latest resolution of the Labor Ministry, and after the protest, as they returned to their headquarters for a meeting, five were approached by police who intended to detain them. When their companions called for help, police fired on the workers, killing one and wounding one. Police then reportedly attempted to force their way into the union headquarters, while workers held them off with stones; three more workers were wounded. The funeral for Mamani Romero, the worker who had been shot to death, became an act of protest attended by workers, union leaders and community leaders. Government officials, meanwhile, made statements implying that the police had been attacked by terrorists who had infiltrated the labor movement.

Another violent situation was produced on October 16, 1989, near the Ministry of Education in Lima. The ministry's workers had been on strike for nearly a month, and some 50 were demonstrating in support of the strike, joined by about 80 members of the police who were also on strike. When police cars and patrol wagons arrived to break up the demonstration, the striking police and the on-duty police exchanged fire, leaving one demonstrator dead and three seriously wounded.

In a communiqué issued in mid-August 1989, at the start of a nationwide strike, the miners' federation stated that between May 1988 and May 1989, more than 1,000 of its members had been arrested and 100 wounded by gunshot and that 14 leaders had been assassinated -- eight by *Sendero*, three by the *Comando Rodrigo Franco* death squad, which operates with official tolerance, two by police forces and one by the armed

forces.⁴⁹ The suppression of peaceful and legal dissent continued into 1990. On April 24, for example, police attacked striking workers of the Health Ministry and beat several seriously. Labor activists were also subjected to other abuses, as described below, because of legal organizing and strikes.

C. Raids and Massive Detentions

Massive detentions by army, police and combined forces continued to be a feature of the counterinsurgency strategy in zones of emergency, and occurred in non-emergency rural zones as well during 1989. One of the dangers of these operations, in the emergency zone, is that they often lead to disappearances. We note especially the plight of refugees from areas of conflict, who attract the suspicion of the authorities by virtue of their origin.⁵⁰

An example is the settlement called "Justicia, Paz y Vida" (Justice, Peace and Life) in Huancayo, Junín -- a community made up of internally displaced families -- which was invaded by some 3,000 members of combined forces on April 26, 1989. Fifteen residents were detained for having books and articles on political subjects. In order to prevent robbery of residents' belongings, which is a common aspect of such raids, and in order to prevent the disappearance of any detainee, community leaders monitored the authorities' progress block by block. The raid lasted from 4 a.m. to 4 p.m.

In Puno, where the state of emergency was not in force, massive detentions by police also took place. In the context of growing tensions in the area, the police reportedly identified the *campesino* movement and leaders of leftist parties with the insurgency. Such attitudes have prevailed for years in the zones where *Sendero* is strong. We note the case of Puno in particular because, there, it is precisely the existence of an organized

⁴⁹ IDL, *En la Espiral de Violencia*, *op. cit.* p. 189.

⁵⁰ During 1989, in Ayacucho and Huancavelica alone, the International Committee of the Red Cross assisted 4,872 persons displaced by the conflict, homeless persons, widows and orphans.

campesino movement that has prevented *Sendero* from becoming very established.

As insurgent violence spread to the coastal cities, and in particular to Lima, the military and police adapted tactics of counterinsurgency to urban conditions; that is, in the wake of *Sendero* or MRTA actions, the Forces of Order rounded up slum-dwellers or students to investigate them for possible links to the armed groups. Those sweeps were often accompanied by the destruction of personal or institutional property. When combined forces of the army and police raided the University of San Marcos and the "Enrique Guzmán y Valle-La Cantuta" National University in Lima on April 16, 1989, the University Council of San Marcos protested that about 300 students had been arrested and their whereabouts were unknown, while the official forces had destroyed or stolen books, photocopy machines, food, and money from safes in deans' offices. An official communiqué stated that the raids had been based on intelligence of terrorist activity in the universities and that arms and explosive devices had been found there; this was denied by the university authorities and the students. The official communiqué reported the total number detained as 518, of whom 30 were held on suspicion of terrorism and the rest released.

On April 25 the San Antonio Abad University, in Cusco, was raided by police. On June 6, for the second time in 1989, the National Central University, in Huancayo, Junín, was raided, and, in spite of a protest from the dean pointing out that no evidence of terrorist activity had been found even after several such raids, a third one took place on July 21 -- with more than 50 students arrested -- and another around the time of the November 12 municipal elections. In the tense period surrounding those elections, universities were raided in Huamanga (Ayacucho), Huancayo, Callao (Lima department) and Lima itself.

In the case of the San Marcos University in Lima, the university authorities' protest pointed to the violence with which soldiers and police had detained some fifty students and the fact that one of the detainees had disappeared. Even in Arequipa -- a southern department not under state of emergency -- police raided the San Agustín University on December 6; here, however, after failing to find subversive material, the police made no arrests.

On June 6, 1989, in Lima, some 400 persons were detained after a police sweep through Villa El Salvador, a highly-organized slum neighborhood. The purpose of the raid was to find subversives. It is worth noting that Villa El Salvador, which has a history of leftist sympathy, has been a focus of *Sendero* efforts to find an urban base, but has resisted *Sendero* attempts to infiltrate its community organizations. In a similar raid carried out by the army, on June 16 in the Huaycán settlement in Lima, 800 persons were detained.

The most intense period for such sweeps during 1989 was in November, in conjunction with the municipal elections. On November 2, the *Sendero* newspaper *EL Diario* was shut down, because it had called for the assassination of several public figures and had hailed *Sendero*'s executions of municipal candidates. In the aftermath of the paper's closure, the armed forces and police raided universities and shantytowns in Lima. On November 9, soldiers and police occupied the "Huanta" shantytown, in the San Juan de Lurigancho district of Lima, treating the residents violently and destroying their meager belongings. The people in this settlement were mainly refugees from the emergency zone. More than 200 persons were detained after a similar operation by combined forces on November 11 in the Huaycán settlement in Lima.

There are *Sendero* sympathizers and members among students in Peru, and *Sendero* plays on the disaffection and lack of prospects of Peruvian youth to appeal to them. Slumdweller are targets of *Sendero* recruitment for the same reasons. To punish entire communities for the actions of *Sendero* in their midst -- rather than offer support for organizations and individuals that reject *Sendero* -- is a strategy both abusive and counterproductive, however. It is also disturbing that the Peruvian public paid so little attention to these developments, as if they were a necessary cost of the counterinsurgency effort.

In early 1990, the high point of massive detentions came around the April 8 elections. In response to *Sendero* actions in Lima the week after the elections, the police detained more than 2,500 persons.

Some of the raids on settlements, such as several in April 1990, were unrelated to the security situation but were characterized by the same gross abuse of authority and enjoyed the same impunity. In one raid intended to evict squatters, on April 14, dozens of families living on a

former plantation in Bocanegra, Lima, were confronted by police using tear gas and guns; one child was shot to death and more than 15 other children nearly suffocated from the tear gas. When the families tried to resettle in the same place on April 26, police used tear gas and sticks, leaving some of the squatters seriously wounded.

In another such incident on April 20, 1990, police sought to evict 10,000 families from El Naranjal, a plantation on the Lima outskirts, using tear gas, bullets and buckshot (the use of which is prohibited), wounding 70 people, mainly women and children, and burning the shanties. According to squatters' denunciations, the judge who ordered the eviction had done so after residents refused to meet his demand for a bribe. When Interior Minister Mantilla visited the site two days later, accompanied by doctors who looked after the wounded, he announced that there was insufficient evidence of abuse on which to start an official inquiry.

D. Torture

The army and police both practice torture systematically in Peru. Persons who "reappear," after a period of unacknowledged detention in army centers, describe extensive torture under interrogation. Persons suspected of terrorism and held by police suffer the same treatment, as do common-crime suspects in police custody. When the bodies of "disappeared" persons are discovered, many bear marks of torture. In the cases of women and young girls who are detained in the emergency zone, there are frequent reports of sexual abuse. As with other grave forms of abuse of human rights, the victims are principally *campesinos* of the emergency zone. In a typical case, Deputy Alejandro Olivera Vila denounced that during the week of February 27 to March 3, 1989, sixty people in Junín had been detained and tortured by members of the army. We note below a few cases involving victims from other social sectors.

- o Víctor Taype, president of the National Federation of Mining and Metallurgical Workers -- a union that represents 80,000 workers in a strategic industry, making him one of the foremost labor figures in the country -- was detained by police on November 20, 1989, in Huancavelica department and tortured throughout that night until the early morning of the next

day. He was subsequently accused of "apology for terrorism." The accusation was widely perceived as an attempt to intimidate the union, which had struck Peru's major mines in the last half of August and had experienced various forms of repression for more than a year.⁵¹

- o On October 5, 1989, hooded men forced construction worker Alberto López Bautista from his home in Ayacucho, and took him to the army barracks in Huamanga called "Los Cabitos," where he was severely tortured. A local prosecutor ordered his case transferred to Lima on the grounds that in Ayacucho his life was in danger.

- o On November 1, 1989, the Federation of Yanasha Native Communities denounced the detention and torture, by the army, of members of the native community of Izcozacín, in Pasco department.

- o A doctor, Carlos Reaño, was detained by police in Cajamarca on September 8, 1989, and tortured during several days thereafter. This case became well-known because it is one of the few in which the torture of a detainee was medically verified and made public, by representatives of the Medical Association who visited Reaño in detention. The doctor was hung by his wrists for such a prolonged period that he suffered permanent damage to his right arm.

⁵¹ Taype's predecessor as president of the Federation, Saúl Cantoral, was murdered by men believed to be members of the *Comando Rodrigo Franco* on February 13, 1989; see below.

Outside the emergency zone, in Puno department, the local *Vicariías de la Solidaridad* of the Catholic Church and other human rights organizations reported numerous cases of *campesinos* detained on suspicion of terrorist association and tortured extensively, then freed for lack of evidence. In Puno as well, for the first time in August 1989, a grave was discovered containing the corpses of five persons bearing marks of torture, which local investigators did not believe to be the work of *Sendero*.

Most cases do not receive either judicial or medical attention. Torture is so frequent a practice -- on common-crime suspects as well as those detained on suspicion of terrorism -- and the courts have been so ineffectual in responding to denunciations, that few cases reach public notice. Even in the case of Víctor Taype, the *Instituto de Defensa Legal*, a legal aid and documentation group, noted how little attention was given to his torture by either the media or political leaders.

Americas Watch welcomes the Peruvian government's decision to allow the International Committee of the Red Cross daily access to the DIRCOTE (anti-terrorism police) center in Lima and believes that this may help to diminish the use of torture on detainees there. Until the ICRC is permitted regularly to visit army and police holding centers in the entire emergency zone, however, there appears to be little hope of curbing this widespread practice.

E. Disappearances

During 1989, Peruvian human rights organizations registered 306 forced disappearances, a slight increase over the previous year. Half of these occurred in Apurímac, a department in the central-south where the state of emergency has now lasted for more than seven years. Of the 158 disappearances in Apurímac, 87 occurred in the province of Abancay, where the Political-Military Command of the emergency zone has its headquarters in the capital city. Following Apurímac in frequency of disappearances was Ayacucho department, with a total of 87 cases for the year. In other departments, the incidence was as follows: 27 in Huanca-

velica, thirteen in Huánuco, eighteen in Lima, two in San Martín and one in Ucayali.⁵²

The overwhelming majority of the disappearances were carried out by members of the army (268). Other official forces engaging in disappearance included the navy's marines (12), the investigative police (7), combined forces (3), intelligence services (1), and the regular police (1). Paramilitary groups were responsible for 4 disappearances. The remainder were carried out by *Sendero* (3) or the details are not known. Detainees who disappeared were generally held in army barracks.⁵³

Thirty-one of the victims were younger than eighteen years old.⁵⁴ In Ayacucho's capital city Huamanga, for example, 14-year-old Rita Marlene Valer Munalla was forced into an army vehicle on October 11, witnessed by a schoolmate, and disappeared. Her brother, Walter Valer Munalla, had been detained by the army in Ayacucho the previous month, and his body had been found on October 7, with marks of torture. In some cases entire families disappeared, as in the case of Victoria Palomino García and four of her children, aged 16 and under, who were detained in Circa district, Abancay province, Apurímac on August 30, 1989.

Labor activists, professionals and students were victims of disappearance. On November 6, 1989, the National Miners' Federation denounced the disappearance of ten of its members, detained by the army in the barracks of Marcavalle, province of La Oroya, Pasco department. The labor movement also launched a campaign to demand the reappearance of Javier Antonio Alarcón Guzmán, professor at the National Engineering University and leader of the National Federation of University Professors of Peru. Alarcón had been on a work-related trip from Lima to the central region of Junín department when he disappeared. He left Lima

⁵² All figures, *Comisión de Derechos Humanos (COMISEDH), Informe Estadístico Sobre la Desaparición Forzada de Personas en el Perú, 1983-1989*, Lima, January 1990.

⁵³ *Ibid.*

⁵⁴ *Ibid.*

on December 7, intending to stop at several universities, but did not reach even his first destination.

For the most part, however, the disappeared in 1989 were adult male *campesinos*, and disappearances took place in the context of army sweeps or military operations in rural areas. On May 17 in the Las Mariposas district, province of Satipo, Junín, a military column of about one hundred soldiers detained more than twenty *campesinos*; the bodies of eleven -- including that of a young girl -- appeared the next day on the banks of a nearby river, bearing evidence of torture, and the others disappeared.

Of the 135 persons who disappeared for substantial periods of time and then reappeared, either dead or alive, nearly all (128) had been detained by the army. The "reappeared" are not counted by Peruvian human rights groups among the "disappeared."

These figures are conservative, based on investigations and witness testimony. Cases denounced in inaccessible areas, where it has not been possible for human rights monitors to follow up, are not included. Such is the case of 25 persons whose disappearance was denounced to the government's Prosecutor General in October 1989: the disappearances had taken place, according to the prosecutor serving in Tocache, San Martín, between August 14 and 27, 1989, in the hamlets of Ischanga, Acceso Limón and La Esperanza, and the victims had been taken to the military base in Palma de Espino. According to the prosecutor, Pedro Chimay, the arrests were part of a counterinsurgency operation, the victims were detained in the presence of family members and they were taken out of the zone by air force helicopters. (This area of San Martín lies within the Upper Huallaga river zone, the coca-producing area where the conflict became markedly more intense during 1989.) Prosecutor Chimay had requested information on the detainees from the PMC commander of the zone, Gen. Alberto Arciniega, without result.

A provincial prosecutor in Ucayali, a neighboring department described the local situation in these terms: "In Pucallpa [the capital of Ucayali department] it is already customary to find, almost every day, the bodies of people who have been cruelly assassinated. As well, from time

to time people disappear who have been kidnapped by uniformed, hooded individuals who only act at night..."⁵⁵

From January through April 1990, at least 60 persons disappeared in the emergency zones, all but five after detention by the army. Another 29 -- among them three dead -- "reappeared." Among the cases investigated by the *Asociación Pro-Derechos Humanos* (APRODEH) were these:

- o Alfonso Aguirre Escalante, engineer and supervisor of a State project under the Ministry of the Presidency, taken from his home in Huamanga by soldiers at 2 a.m. on February 8. He was first held in the "Los Cabitos" barracks, then transferred twice, finally to the military barracks in Cangallo. Although the chief of the Political-Military Command of Ayacucho agreed to investigate, this was not done.

- o Benjamín Naupas Astucuri, *campesino*, detained by soldiers while herding cows toward the city of Vilcashuamán, in Ayacucho. A woman pointed him out as a subversive element, and he was taken first to the local barracks, then to "Los Cabitos" in a helicopter. His name had appeared on a police blacklist of 95 residents of his town, Huambalpa. The town has been harassed by the army since 1983, forcing the massive emigration of its residents.

- o Juan Romero Aguila, *campesino*, vice-president of the civil defense in his hamlet Jaucantaucar, in Huancavelica department, detained by the police at a roadblock, date unknown.

⁵⁵ Dr. César Montalván, of the provincial prosecutor's office of Coronel Portillo, Ucayali, quoted in IDL, *En la Espiral de Violencia*, *op. cit.*, p. 71.

o Rafael Antonio Navarro Simerman, student, detained on March 7 by approximately twelve soldiers, in uniform but wearing ski masks, who broke down the door to his home in La Unión, Huancayo province, Junín department, and violently took him away. When his relatives tried to impede the detention, the soldiers left a bomb at the entrance to the house which blew up and caused extensive damage.

Few bodies of the disappeared are recovered, but Peruvian human rights groups consider disappearances a prelude to assassination.

o Falconieri Saravia Castillo, president of the Agrarian Federation in Huacavelica, was stopped by a soldier in civilian clothes on March 16, 1990 as he went to a municipal meeting in the city of Huacavelica. His son witnessed the detention and followed his father to the offices of the Political-Military Commander of the zone, but the army denied Saravia's detention. On April 1 his body was found in a wood outside the city, his throat slit.

Americas Watch learned of a group disappearance in the environs of the anti-drug base at Santa Lucía, in the northeastern San Martín department. According to peasant leaders from the area, on April 9, 1990 - the day after several snipers fired on the base from across a nearby river - police entered the hamlet of Nueva Unión, near where the snipers had been situated, and took away a dozen young people as suspected *Senderistas*. A month later, their parents were still unable to locate them; although police informally acknowledged their detention, they claimed not to know the young people's whereabouts.

F. Extrajudicial Executions

There is substantial evidence that the military murders civilians in the emergency zone. It is impossible to assess how frequently this occurs, as neither the press nor human rights monitors have regular access to areas of conflict, and the army controls information from those areas. However,

there are several documented cases of extrajudicial executions -- both targeted assassinations and group killings of villagers -- during the period covered by this report. Cases like three corpses discovered with marks of torture and bullet wounds, in Colpa, Huancayo, Junín on December 13, 1989 are the outcome of disappearances. Similarly, a recent case reported by Amnesty International concerns the vice-rector of the University of Huancayo, in the city of Huancayo, Junín, Jaime Cerrón Palomino, and his driver Armando Tapia Gutierrez, who disappeared after abduction by heavily armed men on June 8 of this year while driving to the university, and ten days later were discovered dead under a cliff, their bodies bearing marks of torture. The May 17, 1989 army raid into Las Mariposas, in Junín (described above), involved a combination of disappearances with outright executions.

As we noted in Section II with regard to the findings of the Bernales Commission, human rights organizations in Peru question the army's definition of some persons killed in emergency zones as "subversives." Human rights organizations especially fear that when the army reports on battles without offering information on wounded or detainees, this may indicate that non-combatants, or wounded combatants, have been extrajudicially executed.

An illustration of this problem is the April 28, 1989 events in the hamlet of Los Molinos, near Jauja, in the department of Junín. About 200 elite members of the army's airborne division, traveling along a road near the settlement, reportedly came upon a column of the MRTA in two trucks. When a firefight ensued, some of the MRTA fighters escaped in a truck, and the army gave pursuit, killing an unspecified number. The official figure on dead was 62, but no identification of these dead was issued. At first, when President García and Defense Minister López Albújar flew to the site in a helicopter, they invited the State television and Channel 5 to film.⁵⁶ When other media, including Reuters and the national magazine *Caretas*, attempted to visit and report on the incident, the Political-Military Command prevented them from doing so. President

⁵⁶ Channel 5 is owned by Alan García's friend, Héctor Delgado Parker; see section VI, MRTA.

García stated that the dead "...are the same ones who assaulted Juanjuí a year and a half ago," thereby supporting the army's version of the battle without question.⁵⁷ This, despite the fact that among the dead were old people, women and children. The MRTA made a statement recognizing 47 of the dead as its combatants.

Especially notable was the increase in politically-related deaths in the north-central Upper Huallaga river valley region, which includes Leoncio Prado province, Huánuco, and Tocache province, San Martín. Deaths rose dramatically between May and July 1989, coinciding with an all-out counterinsurgency campaign by the newly established PMC for the Upper Huallaga. A study on numbers of deaths for the first seven months of the year, by department and province, shows that for that period, Huánuco held second place in the nation, with 290 deaths -- of which the greatest number, 166, occurred in Leoncio Prado province. San Martín occupied fourth place -- with 220 deaths, of which 195, almost all, occurred in Tocache province.⁵⁸ The study does not give a breakdown of the deaths. But as elsewhere in Peru, it is likely that a large portion were civilians.

The use of bombardment as a combat tactic increased the probability of civilian casualties. In the Upper Huallaga region, bombardment was used frequently during 1989. On July 6, army helicopters bombarded the community of La Morada, Huánuco, in the Upper Huallaga, killing twenty supposed subversives. When questions were raised about possible civilians among that number, Gen. Alberto Arciniega, then PMC commander of the zone, did not deny the possibility. To *Si* magazine he gave his justification: "It was the residents of La Morada who warned a column of *Sendero Luminoso* of the presence of a military patrol near the hamlet."⁵⁹ Whatever the residents may or may not

⁵⁷ IDL, *En la Espiral de Violencia*..., *op. cit.* p.97.

⁵⁸ There were 450 deaths in Ayacucho and 297 in Junín. COMISEDH, *Violencia Política en el Perú*..., *op. cit.*, pp. 8-10.

⁵⁹ Quoted in IDL, *En la Espiral de Violencia*..., *op. cit.* p.70.

have done, they were not legitimate targets for retaliation but non-combatants whose rights must be respected under international humanitarian law. In Ucayali department, near the departmental capital Pucallpa, an army bombardment and strafing of a settlement in the *Quebrada de Espinal* on October 20 left four dead, one wounded and two disappeared, according to a survivor who denounced the attack. Among the four *campesino* dead were a woman and her young daughter.

In the Upper Huallaga, another problem was that in some cases the army announced large numbers of dead and wounded after a battle but failed to produce the wounded for their families or to identify or turn over the bodies of the dead. This, and other facts -- such as the disproportionately small numbers of arms reported captured from dead "subversives" -- contributed to a growing concern that the civilian toll was being camouflaged.

In the early days of September 1989, about 20 corpses, many decapitated and missing hands and feet, were found floating down the Huallaga River near the anti-drug base at Santa Lucía, San Martín. For obvious reasons it was not possible to identify the bodies or to determine responsibility, but there was public speculation that the army had, in this way, disposed of drug traffickers and attempted to intimidate others. While Americas Watch does not favor any theory about these executions, we consider it indicative of the army's reputation in the emergency zone that it should be suspected of such barbarity.

G. The *Comando Rodrigo Franco*

In Peru, freedom of expression and association is guaranteed and generally respected by the State. As the economic crisis has sharpened, however, and as the security situation has exposed the fragility of the State's legal apparatus, paramilitary groups have emerged with a mission to suppress the resulting debate and dissent. The Bernales Commission found that 164 murders had been committed by paramilitary groups during 1989, of which 153 were attributed to unidentified groups and the remainder to the most formal and self-advertising group, the *Comando Rodrigo Franco*.

The *Comando Rodrigo Franco*, whose activity is usually dated from 1988, was responsible for at least eleven killings during 1989, as well as bombings and innumerable threats against persons it considered

sympathizers of *Sendero* or the MRTA. Among the victims of CRF assassinations were two members of the Chamber of Deputies, Eriberto Arroyo Mío (on April 27) and Pablo Li Ormeño (on May 6), whose deaths prompted the formation of a special Chamber commission to investigate paramilitary violence. That commission reviewed evidence of links between the CRF and the ruling APRA party, but could not reach unanimous conclusions.⁶⁰

The CRF is also suspected in the murder of radio journalist Guillermo López Salazar. López was shot to death in his home in Tingo María on April 19, 1989, in front of his family, by eight men. Shortly before his death, López had told foreign journalists that the CRF had attacked his house, and that, after *Sendero* had forced him to play a propaganda cassette on his radio program, the military and police had threatened him. It is not clear whether López was murdered for his journalism work or for his work as a local official of the United Left party.

Two paramilitary executions that caused great public impact and were widely attributed to CRF (though this was not proven) were those of Saúl Cantoral, president of the important and combative Mine, Metallurgical and Iron Workers union, and union adviser Consuelo García Santa Cruz, a teacher and labor activist specializing in women's rights. Cantoral had received threats from the CRF on several occasions. He was visiting Lima in order to negotiate with the government and to prevent, if possible, the renewal of a national miners' strike. The two were abducted in Lima during the evening of February 13, 1989, and their bodies were found a few hours later in the Lima district of Canto Grande. Pinned to both bodies were placards suggesting that *Sendero Luminoso* was responsible for the executions, but observers familiar with *Sendero* messages of this kind did not consider these authentic. Cantoral had been shot to death; forensic tests suggested that a silencer had been used. García's skull had been crushed, and forensic tests revealed tire marks on her body, suggesting that she had tried to flee and had been run over by a vehicle.

⁶⁰ See Section V.

On June 5, 1989, the press reported on threats against several priests of the *Instituto Español de Misiones Exteriores*, in Ica department, by the paramilitary group calling itself Manuel Santana Chiri. During the period covered by this report, several human rights activists have received threats from the *Comando Rodrigo Franco*.⁶¹

Whether or not the CRF itself took credit for an action, it was evident that paramilitary activity enjoyed at least the tolerance and at times the active support of the official forces. For example, on September 20, 1989 in Lima, residents of the settlement "Rodrigo Franco" made a denunciation that 250 hooded paramilitary agents, accompanied by a contingent of police, had attempted to evict them by burning their shanties, destroying their meeting houses and wounding fifteen residents. As the special commission of the Chamber of Deputies concluded in a preliminary report in August 1989, the utter failure of the police to track down and arrest members of the CRF indicated either a lamentable inefficiency or a conscious decision not to investigate.

H. The Role of Self-Defense Patrols

The fact that Peru's Indian communities have for so long been ignored by the central government has led these communities, in some parts of the country, to form village patrols for protection against strangers, thieves, cattle rustlers and neighboring communities with a score to settle. These *rondas campesinas* have existed in the northwest of Peru for many years as an expression of community self-government.

As early as 1982 in Ayacucho, there were signs that the military was utilizing this model of self-protection to enlist peasants in the counterinsurgency campaign. At first the Political-Military Command denied organizing peasant militias, but in August 1984 the policy became public. *Rondas* instructed by the military were not given weapons but their leaders reported regularly to the PMC. They also were implicated in killings. The deaths of eight journalists in Uchuraccay, Huanta province, Ayacucho in 1983, a landmark case, took place in an area where frequent killings by *ronderos* had been reported, and where the journalists went to

⁶¹ See section VIII.

confirm those reports.

At its outset, the García government did not appear to promote the formation of *rondas campesinas*, but this posture gradually changed, and in 1989, García openly called on the rural population to form village self-defense patrols as part of the counterinsurgency effort. García himself went to La Rinconada Baja, a community in the La Mar province of Ayacucho on December 8, 1989, to officiate at a ceremony in which arms were distributed to the local civil defense committees under the leadership of a "Comandante Huayhuaco." Calling the work of the patrols "democratic insurrection," the President asked rhetorically, "They always say that if we give arms to the *campesinos* maybe they will use them badly, I say: Why must we distrust them?"⁶²

In the public debate that surrounded this event, some sectors of opinion praised the efficiency of the *rondas* in La Mar while others argued that the patrols would not be militarily effective and only served to militarize civilian communities. The secretary general of the *Confederación Campesina del Perú*, Juan Rojas Vargas, accused the *ronderos* under "Comandante Huayhuaco" of killing and threatening peasants. Soon thereafter, two national magazines, *Caretas* and *Si*, published findings that the *comandante* had been convicted of trafficking in drugs and that he should still have been serving his ten-year sentence.

The *rondas* in La Mar had been formed at the urging and with the tutelage of the navy's marines. And well before the controversy over "Comandante Huayhuaco," these and similar patrols had been formed in much of the emergency zone. In some areas of Ayacucho, villages reportedly formed *rondas* spontaneously during 1989 to ward off *Sendero*; generally, however, even when a certain will to organize patrols existed, the patrols were not left autonomous by the Political-Military Command of an emergency zone, and in many cases it was the PMC which urged, or imposed, the patrols on peasant communities. In part for this reason, throughout the year *Sendero Luminoso* made the *rondas* a special target, or used the existence of a *ronda* as an excuse to execute villagers.⁶³

⁶² IDL, "Informe Mensual No. 9," Lima, December 1989, p.9.

⁶³ See Section VI.

Americas Watch does not discount *Sendero's* violent pressure on peasant communities, which lack adequate police and military protection and therefore may see the *rondas*, imposed or not, as a possible step toward safety. But to draw civilians into an irregular conflict through identification with the military authorities -- indeed to demand that civilians make this organized identification, as the PMCs frequently do in the emergency zones -- is to invite further violence against them, to avoid responsibility for their protection, and implicitly or explicitly to encourage violence on their part.

A case in point is Naylamp de Sonomoro, Satipo province, Junín. During 1989, *Sendero's* presence in this part of Mazamari district had been growing; the town of Cubantía, near Naylamp, had been attacked several times by *Sendero* beginning in August 1989.⁶⁴ Peasants in the area, who are predominantly Indian, approached the police for help in coordinating defense against *Sendero*, and the PMC began to offer training in August. Then *rondas* were formed throughout the district as of February 1990, encouraged by the PMC but not necessarily imposed by it. Communities more eager to establish *rondas* pressured their neighbors to follow suit or be suspected of *Sendero* sympathies.

Naylamp, relatively prosperous by rural standards, was not eager to form a *ronda* as it preferred to stay out of the conflict. But in part to protect themselves from *Sendero*, and in part to protect themselves against neighboring communities with grudges, Naylamp's residents organized a *ronda* in March. On March 28, 1990, in an incident that a newspaper based in Lima reported as a confrontation between *Sendero* and the police, the *ronderos* of Naylamp entered the town of Cajiriari and killed residents of the town with machetes and old hunting rifles, while a contingent of police followed them in. Among those captured by the *ronderos* and police were two children who have not been seen again. The press described the six dead as *Sendero* leaders in the zone, probably on the basis of a police communiqué.

⁶⁴ According to agricultural specialists familiar with the area, Cubantía was bearing the brunt of *Sendero* attacks through April 1990, but these had not been investigated by the authorities.

Alejandro Quispe, leader of the *ronda* in Naylamp, opposed violence by the patrol and represented the original community opposition to involvement in the conflict. Quispe was away from the community, however, when *ronderos* committed the crime that would bring *Sendero* down on them.

In April, Naylamp *ronderos* detained a family in Centro Sanibeni, a nearby center of *Sendero* activity. One son was a known *Sendero* member; a daughter had been arrested on suspicion of membership in *Sendero*, then released. As the family was preparing to leave the area following the daughter's release, Naylamp *ronderos* detained them. When they reported the detentions to the local police post, asking for instructions, they were told, "Be men, don't come to us." They took this as an instruction to eliminate the family, but were reluctant to kill their captives, and went back to the police a second time. The response was even more vehement. Then, with some of the *ronderos* refusing to participate, the "self-defense patrol" of Naylamp violently murdered the family with machetes and guns and threw their bodies in a river. The daughter who had earlier been arrested, survived this atrocity and informed *Sendero* what had happened. On April 12, 1990, as described in Section VI, *Sendero* entered Naylamp in force and committed an atrocity of its own, killing some 35 villagers -- including *ronda* leader Alejandro Quispe -- and wounding 26 more.

As this example demonstrates, militarization of peasant communities calls forth local rivalries, overrides non-violent tendencies within a community, and may encourage abuses by *ronderos* without offering them any protection from the inevitable reprisals of *Sendero*. The army may deny responsibility for abuses by self-defense patrols -- or profess horror, as the military command at Mazamari did after the family's murder -- but "deniability" is also convenient for the authorities. The patrols are trained by and accountable to the military and police, and in the incidents described above, only did what they were told.

The following example concerns abuse of power by armed civilians with what appears to have been covert military support. It shows, even more clearly than the Naylamp incidents, how inter-community grudges -- in this case, the grudges of an isolated indigenous group against whites and another indigenous group -- may be utilized to accomplish the

military's dirty work. The incidents described below grew out of MRTA activity, which led to militarization in the environs of Constitución, department of Pasco, starting in mid-1989. This area comprises the Pichis and Palcazu rivers, where Ashaninka and Yanessa indigenous peoples live.

After the MRTA assassinated a long-established leader of the Ashaninka indigenous community in December 1989, the victim's sons mobilized a force of Ashaninkas to "clean out" the MRTA from the Pichis River valley. The MRTA's victim, Alejandro Calderón, had had close relations with the military, and according to sources familiar with the zone, the army and navy gave their blessing to the Ashaninka revenge campaign. That campaign, which extended into the month of January 1990, left more than 50 dead in the Pichis River valley and Constitución.

In early February 1990, an Ashaninka force of about 200 crossed the Pichis River from their communities and attacked the settlement of Iscozacín, which contains some white farmers but is mainly a center of another ethnic group, the Yaneshas, who numbered about 5,000 in the town. The history of distrust between the two indigenous peoples may have played a part; so too may envy, as the Yaneshas inhabit a more fertile area than the Ashaninkas and have historically been more integrated into the local economy. It is also relevant, we believe, that the previous November, the Yaneshas had made a denunciation against the army, after soldiers entered Iscozacín and detained and tortured residents of the town. The Yaneshas govern themselves through a single democratic organization, and did not wish to militarize. In any case, the Ashaninkas arrived with a list of MRTA suspects -- not a thing they were likely to put together by themselves -- and imprisoned the Yanessa population in a municipal building, after which they selectively executed five Yaneshas and several non-Indian settlers.

The Ashaninkas remained in the town for the rest of February 1990, forcing the residents to feed and support them and to do *ronda* duty for their protection. They also prohibited pre-existing Yanessa organizations and ordered the Yaneshas to militarize in self-defense patrols. According to sources close to the Yanessa community, however, the MRTA had already been quite effectively excluded by the Yaneshas, who wanted no part of the insurgency. This suggests that the Yaneshas

may have been victimized, at least partially, because of their reluctance to enter the conflict on the military's side.

In April, Army Gen. Manuel Delgado Rojas, PMC commander of the zone, praised the paramilitary activities of the Ashaninkas, calling them "an example of how the population should defend itself against terrorism" with the support of the armed forces.⁶⁵ In early May, after the Yanasha community published a protest against Ashaninka abuses in a Lima newspaper, they received a threat that the Ashaninkas would return. Thus, there are a number of signs that the Ashaninkas' paramilitary activity was not solely the emotional response of an isolated indigenous people to its leader's assassination, or a local feud between indigenous communities, but something utilized by more pragmatic forces.

Unfortunately, as we have seen in other countries where civil defense patrols have been part of counterinsurgency strategy, the formation of such patrols tends to create paramilitary forces that function principally to punish other civilians, and in the process -- as in the Yaneshas' case -- local forms of democracy are ruptured, the most violent members of a community benefit, and even when abuses are committed by patrols independently of the military, it is not in the military's interests to punish those abuses, as that would mean dismantling a patrol. In the Peruvian context, there is hardly a need for another force to prey upon the rural civilian population.

Even recognizing Peruvians' desperation to find effective means of containing *Sendero*, and even recognizing that villagers themselves may regard *rondas* as necessary for self-defense, Americas Watch believes that the creation of *rondas* must take into account the substantial human rights risks they imply, both to the *ronderos* themselves and to other civilians whom the patrols may be pressured to execute. If the State is to support the formation of self-defense patrols, these should be trained and oriented only for self-defense activity, such as the protection of residents and property from attack, by means of regular and democratic distribution of guard duty in the manner chosen by the villagers themselves. Patrols should not be used for aggressive actions in any circumstances, nor as a replacement for

⁶⁵ *El Comercio*, April 3, 1990, p. A15.

traditional village authorities. No community should be forced to organize a patrol if it does not want one, nor should any community be punished and considered subversive for its reluctance to militarize, and no individual should be forced to be part of a patrol.

We are concerned that in Peru, given the isolation of many areas under state of emergency and the lack of oversight of military training for the *ronderos*, these necessary limits on patrol actions may not be possible for the government to enforce. If that is the case, then we believe the formation of the patrols should be discontinued as a matter of policy, and that, if communities wish to form patrols, they be permitted to do so strictly for defensive purposes and without subservience to the military authorities, so that they do not enter the wider conflict.

VIII. THE PERSECUTION OF HUMAN RIGHTS MONITORS

There has been a perceptible decrease in public debate about human rights in Peru over the past two years. We noted in our 1988 report that the government's tolerance of abuses was, in our opinion, largely responsible for a growing public tendency to consider abuses inevitable. In spite of this disturbing tendency, there are impressive human rights organizations in Peru which continue to document and publicize human rights violations by the insurgents, the paramilitary groups and the armed and police forces. These organizations condemn abuses by both sides, and thus encounter hostility from both sides.

Conditions for investigating human rights abuses in Peru, as evident from the rest of this report, are extremely difficult in areas under state of emergency. In rural areas, especially, human rights monitors work under a multitude of constraints and at great personal risk. Delegations from the Lima headquarters of the human rights organizations are able to travel to some emergency zones and gather testimony, but in others the security situation, and army attitude, do not permit this. The provinces of the Upper Huallaga Valley, in particular, are so dangerous that little human rights information is available.

Where it is not possible for human rights monitors to work, the civilian population is completely at the mercy of abuses by either side, and Americas Watch is concerned that the growing difficulties of human rights monitoring in Peru, in addition to posing greater risks for the monitors themselves, may indirectly contribute to a further increase in abuses.

In a survey of conditions for human rights organizations from December 1988 through December 1989, which covers part of the period since our last report on Peru, Americas Watch registered nineteen cases of persecution of Peruvians engaged in the defense of human rights, either as members of formal human rights organizations, as witnesses, or as the legal representatives of victims of repression.⁶⁶

⁶⁶ Human Rights Watch, The Persecution of Human Rights Monitors, *op. cit.*, pp. 221-226.

A few examples:

o Carlos Escobar Piñeda, the prosecutor who investigated the massacre at Cayara,⁶⁷ worked on behalf of the surviving witnesses of the massacre after being fired from his post in August 1989. After the principal remaining witness was killed that September, Escobar publicized the execution in the Peruvian media. In late September he received three telephone death threats and noticed being followed. He had been receiving threats sporadically since August 1988. The new threats forced him to leave Peru on November 8 for the United States.

o Dr. Coqui Samuel Huamani Sánchez, a lawyer and director of the *Comité de Derechos Humanos* (CODEH) in Cerro de Pasco, a community-based organization, was found dead on August 23, 1989, some hours after being seized in his home by armed men believed to be members of the security forces. He was the first human rights activist killed in the region.

o Dr. Wilfredo Saavedra, a lawyer and president of the *Comité de Derechos Humanos* (CODEH) in Cajamarca, was detained on September 19, 1989 by members of the investigative police after being asked to accompany them to their headquarters supposedly to identify a detainee. He was reported to have been severely tortured in order to force him to confess to collaboration with the MRTA and was charged under the anti-terrorist law.

o Four witnesses to the May 14, 1988 army massacre of at least 29 peasants in Cayara, Ayacucho

⁶⁷ See section V.

were murdered between December 1988 and September 1989. Three, Antonio García Tipe, Fernandina Palomino Quispe, and Justiniano Tinco García (the latter being the mayor of Cayara), were shot dead at an army roadblock on December 14, 1988. The fourth, Marta Crisóstomo García, received death threats for several months in 1989 and was executed on September 8, by men who entered her home in Huamanga and whom witnesses identified as military. She was the ninth witness to the Cayara massacre to be the victim of disappearance or extrajudicial execution.

o Cecilia Olea, member of the women's rights organization Flora Tristán, received repeated telephone threats, and on May 10, 1989, a note signed by the *Comando Rodrigo Franco* accusing her of being a "communist."

o Fernando Mejía Egocheaga, a legal advisor to peasant communities and shantytown dwellers, leader of the Oxapampa Bar Association and president of the provincial committee of the United Left, was found dead on June 18, 1989, after being seized in his home on June 15 by military personnel in Oxapampa, department of Pasco. His body bore signs of severe torture and bullet wounds.

Also during 1989, presumed paramilitary agents bombed the homes and offices of Rodolfo Calderón and Andrés Ascencio, lawyers who defend persons accused of terrorism, in Lima on March 22. Paramilitary agents were also responsible for the murder of labor and women's rights activist Consuelo García Santa Cruz, on February 13 in Lima. The *Instituto de Defensa Legal*, a legal aid and documentation group, noted that in Junín department, lawyers engaged in human rights cases reported being "permanently threatened and each time there are fewer [legal] professionals to take those cases due to the threats and

mistreatment."⁶⁸

While this report does not include a section on the press, several journalists have been killed since our October 1988 report on Peru was published, whose cases we discuss above in various contexts. It was not always possible to determine whether journalists had been killed for the exercise of their profession, or more specifically for reporting on human rights. But in addition to the cases we mention elsewhere, we would like to emphasize the case of Hugo Bustíos, of the weekly magazine *Caretas*. The magazine has focused frequently on the human rights situation, and Mr. Bustíos was murdered while on his way to investigate a double murder.

o Hugo Bustíos and a colleague, Eduardo Rojas of the daily *Actualidad*, were traveling in Huanta on November 24, 1988 when they were shot from the side of the road. Bustíos was killed, Rojas wounded. Both had reported on the conflict from this area. The military authorities had twice denied them permission to investigate the murders at the crime scene. The day of the attack, Mr. Bustíos had sought permission to investigate from an army lieutenant colonel in the Castropampa military base, who questioned Bustíos about his possible ties to a recently captured *Sendero* leader. The ambush took place after the journalists left the army post, when only the army and Bustíos' wife knew their route, and only seconds after they had been waved through at an army roadblock. There were military efforts to impede the case's investigation, and soldiers have detained and threatened Bustíos' widow, Margarita Patiño, and Rojas as well as six witnesses. One witness, Alejandro Ortiz Serna, was murdered on May 27, 1989. In early May 1990, the U.S.-based Committee to Protect Journalists filed a complaint against Peru on the Bustíos case before the Inter-American Commission on Human Rights of the

⁶⁸ IDL, *En la Espiral de Violencia*, *op. cit.* p. 91.

OAS, asking immediately for special "precautionary measures" (*medidas precautorias*) to protect the lives of Patiño, Rojas and the witnesses. On May 16, 1990, the Commission issued a special request for protection to the Peruvian government, as well as an urgent request to the Inter-American Court of Human Rights to issue similar preventive measures. On June 5, 1990, the President of the Court, Héctor Fix Zamudio of Mexico, ordered Peru to protect the lives of the witnesses and to refrain from actions against them. A court hearing was set for August 7, 1990 in San José, Costa Rica, to hear all parties on the issue of appropriate precautionary measures while the case is being processed. Though these powers of the Commission and the Court are contemplated in the American Convention on Human Rights and in their respective regulations, this is the first time that they have ever been put to use.

o On February 16, 1990, while he was away attending a session of the United Nations' Human Rights Commission, the home of Dr. José Burneo, director of the *Centro de Estudios y Acción para la Paz* (CeaPaz), an organization associated with the Church, was visited by men who refused to identify themselves. This had also occurred in September 1989, when a man armed with a pistol or revolver knocked heavily on Burneo's door after midnight but refused to identify himself. A third intimidatory visit was paid to Burneo's house on March 16, 1990, while he was still away.

o On February 18, 1990, at 3:30 a.m., a bomb exploded in the Lima offices of the Andean Commission of Jurists, an international human rights organization. Staff members of the Commission and of CeaPaz had noted surveillance of their homes in the days preceding the bombing.

o A few minutes later, another bomb exploded in the Lima offices of the International Committee of the Red Cross.

o On February 27, 1990, Angel Escobar Jurado, vice-president of the *Comité de Derechos Humanos* (CODEH) of Huancavelica, was kidnapped by five men in civilian clothes, and has disappeared. His name reportedly had appeared on a *Comando Rodrigo Franco* death list in 1989.

o On March 1, 1990, persons identifying themselves as members of the *Comando Rodrigo Franco* made telephone threats to Francisco Soberón, coordinator of the *Asociación Pro-Derechos Humanos* (APRODEH), which documents human rights abuses in the emergency zones.

o On March 4, 1990, at 2:30 a.m., a high-powered bomb caused substantial damage to the Lima offices of Amnesty International. According to the anti-terrorist unit of the national police, DIRCOTE, the bomb was "of high potency and sophisticated manufacture."⁶⁹

None of these cases has been adequately investigated. The Interior Ministry's investigations into the three bomb attacks were superficial and unsatisfactory. At this writing it remains unknown whether the bombings were orchestrated by the MRTA (as the Interior Ministry concluded), by the *Comando Rodrigo Franco* or by the intelligence services of the armed forces. The timing and targets of the bomb attacks suggest that, at a

⁶⁹ Inter Press Service, March 5, 1990, quoted in Americas Watch, "Wave of Violence Against Peru's Human Rights Community," News From Americas Watch, March 18, 1990, p. 2.

moment when the United Nations was studying the situation of human rights in Peru, international human rights organizations with expertise on Peru were being warned to act with care.

As this report is written, Americas Watch has received information on two new cases:

- o On June 9, 1990, a bomb was planted in the house of Rosa Mandujano, in Huancayo, Junín, according to Amnesty International. She works as human rights secretary of the Huancayo Defense Front.

- o Amnesty International also reported the detention of a human rights monitor in Ayacucho on June 10. Guadalupe Ccallocunto Olano was reportedly detained by armed men in civilian dress at 2:30 AM. When her family approached the military authorities about her detention, later that morning, they were told the authorities had no record of it. Her relatives believe the army was responsible, as she had been threatened by members of the army in recent months. She had also been detained twice in earlier years. Ccallocunto has been active in the association of the relatives of the detained and disappeared in the emergency zone since her husband disappeared in 1983. She had also recently been working with the international human rights organization *Servicio Paz y Justicia* (SERPAJ) in Ayacucho.⁷⁰ Americas Watch has called on the government of Peru to ensure that, if she is in custody, her detention be acknowledged, that she be guaranteed due process and that her physical integrity be respected.

⁷⁰ SERPAJ is the organization whose leader is Nobel Peace Prize winner Adolfo Pérez Esquivel.

As the Fujimori government takes office, we urge that it make a gesture of intent regarding human rights by offering strong and unequivocal support to Peru's human rights organizations. As bleak a situation as they document, Peruvian human rights organizations are careful and rigorous, and their consistent condemnation of violence by *Sendero* and the MRTA, as well as by official forces, leaves no doubt of their sincerity in advocating respect for human rights for its own sake.

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IX. THE ROLE OF THE UNITED STATES

A. Proposed Military Aid

In September 1989, the director of national drug control policy for the United States, William Bennett, announced a plan for curbing the production, processing and commercialization of narcotics in Colombia, Bolivia and Peru. Accompanying that plan was a request that Congress release \$125 million in military aid for the three Andean countries for Fiscal Year 1990. The explanation of how these funds would be spent was not available until March 1990, and did not satisfy some members of the U.S. Congress, who demanded that human rights concerns receive more emphasis and that the Administration provide written assurance of the aid's objectives: members of the House Foreign Affairs Committee, for example, insisted that aid must go only for counternarcotics training and equipment, not for counterinsurgency.

The Administration provided such assurances, and for FY 1990, \$35.9 million in military aid was appropriated for Peru, as well as \$19 million of assistance to the Peruvian police and \$6.8 million to the U.S. Drug Enforcement Administration (DEA) to support DEA liaison with the Peruvian military once the military aid is accepted. The package also contained \$4 million in economic support funds tied to the counternarcotics program.⁷¹

For FY 1991, the Administration has requested for Peru an increase of military aid to \$39.9 million, the same amounts of police and DEA assistance as in FY 1990, and a substantially larger allotment of counternarcotics economic aid, \$63.1 million, which is intended for balance-of-payments support; the local currencies generated would be used for counternarcotics activities.

The García government did not approve the counternarcotics package for FY 1990, except for the portion for police; as of this writing, Peru has not signed the agreement permitting the remaining funds -- a total

⁷¹ The United States gives food grants and loans and developmental aid to Peru as well, a total of \$57.2 million for FY 1988, with \$41.2 million requested for FY 1989 and \$42.3 requested for FY 1990, at this writing.

of \$46.7 million -- to be disbursed. This FY 1990 aid awaits acceptance or rejection by the new Fujimori government.

Most controversial, in the package, is the military aid, an immense increase over U.S. military aid in the past and the first time that the Peruvian military will receive training for counternarcotics activity.⁷² The contents of the package have not been made public. But according to press reports and U.S. officials in Lima, the aid would be destined for the training of five battalions of the Peruvian army and one battalion of marines (navy), the entire military force deployed in the coca-producing Upper Huallaga river valley in north-central Peru; to provide motor launches for actions along the rivers of the coca-producing areas, as well as replacement parts for surveillance aircraft; and to outfit the force with basic equipment such as uniforms. Reportedly the package also contains some \$8 million for the construction of a new military training base in the Upper Huallaga, but the construction project appears to have been abandoned or postponed; it is unclear how those funds would be used if the base were not constructed.

If the new Peruvian government approves this U.S. initiative, training may begin as early as September 1990. On the ground in the Upper Huallaga valley would be an undisclosed number of U.S. Green Berets acting as trainers -- one source says as many as 24⁷³ -- as well as a small group of support personnel, coordinated by the Military Group attached to the U.S. Embassy in Lima. Members of Congress have questioned U.S. officials closely about reports, including one in a military magazine, to the effect that the Green Berets would be involved in combat operations, and Pentagon officials have stated that the trainers have been prohibited from any combat role.

Despite the earlier assurances given to Congress, it is evident that

⁷² In FY 1988, total U.S. military training aid to Peru was \$400,000 for the International Military Education and Training (IMET) program.

⁷³ The Department of State has refused to give Congress any figure for the number of Green Berets to be sent as trainers. The figure 24 is given in "The Next Nasty War?", *Newsweek*, May 21, 1990, quoting a U.S. diplomat in Lima.

the military training would include counter-insurgency tactics. Melvyn Levitsky, Assistant Secretary of State for International Narcotics Matters, told a subcommittee of the House Foreign Affairs Committee on June 20 of this year, "...[W]here the insurgency and the drug traffickers are inextricably bound together, we have to deal with them together... We have an interest in helping them [the Peruvian military] fight that insurgency."⁷⁴ More pungently, an unidentified U.S. military official told Newsweek magazine, "We're going back to what we know best - how to fight the commies."⁷⁵

In previous sections of this report we have described some aspects of the human rights situation, and how it is deteriorating, in the Upper Huallaga. In brief, the types of violations of human rights occurring in the Upper Huallaga during the past year and a half, committed by uniformed agents of the military and police forces, include disappearances, army bombardment of villages, and police abuse of civilians during drug searches. There is also circumstantial evidence of army killings of non-combatants in situations apart from the bombardments of inhabited areas.⁷⁶

These facts alone are sufficient to disqualify the Peruvian army and marines for U.S. military assistance under Section 502(b) of the Foreign Assistance Act, which states that a government may not receive such assistance if it "engages in a consistent pattern of gross violations of internationally recognized human rights." While we do not believe that the García government deliberately pursued a policy of human rights violations, the abuses described in this report reveal that a "consistent pattern" of such abuses has taken place, reflecting at the least an official acceptance of abuses and a refusal to confront or curb them. What is more, the requirements of 502(b) pertain to human rights conditions in a country as a whole; even were the Peruvian military entirely blameless for the

⁷⁴ "Peru Drug Fund Used in War, Aide Says," New York Times, June 21, 1990, p. A3.

⁷⁵ "The Next Nasty War?", Newsweek, May 21, 1990, p. 37.

⁷⁶ See section VII and below, this section.

climbing incidence of abuses in the Upper Huallaga itself, their overall performance would disqualify them for aid to fight there.

U.S. officials are aware of this, just as they are aware of the extent of human rights violations in Peru. Although U.S. officials in recent Congressional hearings have sought to downplay the human rights situation in Peru, the Department of State's Country Report on human rights in Peru during 1989 is an excellent profile of that situation, sparing neither the military nor the police. The counternarcotics aid package, therefore, is proposed in full knowledge that 502(b) requirements cannot be satisfied in Peru.

The legislation under which the counternarcotics aid is being requested, the International Narcotics Control Act of 1989, also contains human rights language; it makes 502(b) conditions applicable to all assistance appropriated for the anti-drug campaign. It, too, is being ignored.

Similarly, the \$19 million in police aid already appropriated for FY 1990, and accepted by the García government, was passed through Congress only by waiving the relevant human rights legislation, Section 660 of the Foreign Assistance Act. That legislation prohibits the use of U.S. aid "to provide training or advice, or provide any financial support, for police, prisons, or other law enforcement forces for any foreign government...." The legislation was drafted specifically to prevent U.S. assistance to abusive police forces, of which Peru's unfortunately is one. We do not believe sound policy can be made by waiving human rights law, which was developed to avoid the repetition of bitter past experience.

Given the intense pressure in the United States for initiatives against international drug traffic, and given that the United States government has defined the war on drugs as a matter of national security, we are aware that arguments based on human rights legislation may not convince those arguing for military aid. We also recognize the real dangers that *Sendero* and the drug traffic pose for the stability of the Peruvian State, and the need for efficient military confrontation of *Sendero*.

But the Peruvian government, as desperate as its situation is, has taken a different view of the problem in the Upper Huallaga, one that -- despite Alan García's plummeting popularity in 1989 -- was widely shared in Peru. García pursued a multilateral response to the drug traffic, through

discussions with Colombia and Bolivia and through demands that the United States and European governments take responsibility to discourage drug consumption while helping the Andean nations to find viable alternatives of development. In a letter to García in December 1989, as a prelude to the February 1990 Cartagena summit meeting of the Presidents of the U.S., Bolivia, Colombia and Peru, President Bush wrote that, while attacking the problems of consumption and production, "We must, at the same time, provide legitimate alternatives to peasants who live in the countries where coca is cultivated."⁷⁷ García's objections to the FY 1990 U.S. aid proposal centered on its small economic component, which did not bode well for a long-term developmental strategy as agreed upon in Cartagena.

The FY 1991 aid proposal does include substantial economic aid for the counternarcotics effort, as we have already noted. But that aid is to go toward budgetary support, not for development or crop substitution as envisioned by the Andean governments. And the economic support funds are ultimately contingent on Peru's acceptance of the military portion of the package. The Administration's apparent linking of economic aid to the Peruvian government's acceptance of military aid was explored in depth at House and Senate hearings in June, where members and senators sharply criticized the policy.

In addition to our primary objection based on 502(b) and Section 660 human rights requirements, Americas Watch has serious questions about the destination of U.S. aid in a region under military control, where the civilian government presence is decreasing and human rights abuses are multiplying. It is highly debatable whether a military response to coca cultivation can substitute for a coherent political, military and economic program in the region, coordinated and supervised by the Peruvian government. It is also reasonable to ask whether militarization as the U.S. proposes it -- that is, a combination of anti-narcotics and counterinsurgency campaigns -- may actually inhibit the development of such a coherent program, for reasons explained below.

⁷⁷ IDL, *En la Espiral de Violencia*, *op. cit.*, p. 77. Note: English translation made from Spanish text.

We are concerned, moreover, that the proposed U.S. aid package may commit the United States to a strategy that could not succeed without further infusions of military aid over time and without wholesale human rights violations. Those who judge that a war on drug traffic and *Sendero* together in the Upper Huallaga can be won quickly, with what pragmatists may regard as an acceptably selective loss of civilian life, are, we believe, mistaken.

Conditions in Peru are such that the military approach to narcotics control will victimize small growers, peasants who have no part in the processing or sale of cocaine but who also lack alternatives to the planting of coca. To evaluate the full implications for human rights, it is important to take stock of the history of *Sendero Luminoso* and coca cultivation in the Upper Huallaga region, as well as the failure of U.S. programs for drug eradication to date.

B. Background: The Upper Huallaga and U.S. Drug Programs

The Upper Huallaga river valley is a loosely-defined jungle area comprising the provinces of Marañón and Leoncio Prado in the northern half of the department of Huánuco and the province of Tocache, which occupies most of the southern half of the department of San Martín. These areas are joined by a highway that runs from the city of Huánuco north through the town of Tingo María and then northwest through the center of San Martín department. It is a fertile area capable of producing fruit, grains, and palms as well as sugar. The population of the area is roughly estimated 300,000.

Colonization of the Upper Huallaga was promoted by Belaúnde's first government (1963-68), under a program to develop the jungle. The military governments of 1968-80 paid no attention to the region, however, thus leaving *campesinos* without adequate commercial roads and other services for development. The increase in coca cultivation was in some measure a result of the State's failure to provide development options to a population that had moved to the area to improve their quality of life, inspired by the promises of the Belaúnde government.

Before the mid-'70s, some coca was produced for local consumption by the *campesinos*, who traditionally chew the leaf. After 1975, however, in response to the international demand for cocaine, and in

the context of government inattention to peasants' economic needs, the area of cultivation increased from 1,000 hectáreas (about 2,500 acres) to 6,000 in 1980 and, by 1989, an estimated 200,000 hectáreas.⁷⁸

U.S. anti-narcotics programs in the area date from the beginning of the '80s. By the time Belaúnde was returned to power in the 1980 elections, coca cultivation had become a serious international problem, and his government combined the establishment of a special police unit (UMOPAR, Mobile Rural Patrol Unit) with two U.S.-financed programs for coca control. One of the U.S. programs, run by AID, was a long-term agricultural development project; the other was explicitly aimed at drug interdiction. In this context, agents of the U.S. Drug Enforcement Agency (DEA) were sent to work with the Peruvian police.

The police made little headway, however, in part because many of them were corrupted, a situation that persists today. Peasant growers of coca found themselves pressured both by the interdiction program and by police who demanded bribes, as well as by the traffickers themselves, who violently opposed any organizing to defend peasants' interests. In this situation, both *Sendero Luminoso* and the MRTA established a presence in the zone, claiming to represent the interests of the small growers.

Sendero had more success than the MRTA, taking on the police, the paramilitary organizations of traffickers, and the MRTA where the two groups were in competition. By 1988 *Sendero* was operating in most of the Upper Huallaga and acting as an intermediary between the peasant growers, or *cocaleros*, and the agents of the Colombian traffickers who buy the coca leaf or its first-stage refined product, coca paste (*pasta básica*). *Sendero* offered the peasants protection and bargained with the traffickers for higher prices.

As this process was underway, the governments of Belaúnde and García faced a two-sided problem: they could either give priority to the drug eradication effort, as the United States wished to do, and thereby alienate the peasants by destroying their livelihood without offering them an alternative; or they could pursue *Sendero* first, seeking support from the local population through development programs, and deal with coca

⁷⁸ IDL, *En la Espiral de Violencia*, op. cit., p. 58.

production in a more gradual fashion. If drug eradication were to take priority, the police would be in charge of operations and the issue would be defined as criminal activity. If *Sendero* were the prime target, this would require the army to take charge under emergency authority.

Belaúnde decided that *Sendero* should be the first priority and ordered the suspension of drug eradication efforts in the zone. Under a state of emergency declared in July 1984, the army dedicated itself to confronting *Sendero* and explicitly guaranteed the population that it could continue to plant coca. The United States opposed this strategy, however, and convinced the Peruvian government to allow limited renewal of its eradication efforts, which were unpopular among the peasants. Then in December 1985, the new García administration lifted the state of emergency. *Sendero* took advantage of the presence of the U.S. programs, and their unpopularity, to kill workers with the programs. It took advantage of the army's withdrawal to attack the police.

In July 1987, García reimposed the state of emergency, which has been in force since then. He did not, however, immediately install a Political-Military Command in the Upper Huallaga, as has been the practice elsewhere. Instead, a sort of in-between state of emergency authority resided with the police.

The DEA thus continued its programs, and had some success at interdiction in the last months of 1988. But the U.S. initiatives were constantly under attack by *Sendero*, making it evident that the police could not operate securely. These are the conditions which have prompted the United States to turn to the Peruvian military, proposing to "solve" the narcotics problem by eradicating coca and *Sendero* together.

C. Military Contradictions and Human Rights Abuses, 1989-90

During 1989 *Sendero* increased its activity in the Upper Huallaga, as noted elsewhere in this report. For the first time *Sendero* was prepared to fight in open confrontations. As it became more difficult for anti-narcotics agents to operate safely -- and given the local population's lack of cooperation -- the U.S. promoted the use of an herbicide, Tebuthiuron, popularly known as "Spike," to eradicate coca plantations from the air. The environmental effects of the chemical are serious; the political effects could be equally so, in terms of its potential propaganda value to the

insurgency. The government's proposals to use "Spike" met strong opposition from local *campesino* organizations and were dropped, although one "experimental" application was made in March 1989.⁷⁹

In the meantime, the absence of a clear strategy for confronting *Sendero* in the region led to national scandal. *Sendero*'s late March 1989 attack on the Uchiza police post, in San Martín department, revealed the government's lack of military preparedness and flexibility, as ten policemen were killed and another fourteen wounded while the government was helpless to send reinforcements.⁸⁰ The incident provoked widespread criticism of the drug eradication emphasis in the Upper Huallaga, as it was perceived that *Sendero* was the greater danger.

The controversy produced a change of direction, an all-out campaign against *Sendero*. In April 1989, Army Gen. Alberto Arciniega was named chief of military operations in the security zone comprising Huánuco and San Martín departments, which includes the Upper Huallaga, and in May 1989 the armed forces were given control of internal order in the zone with the formation of a Political-Military Command. Arciniega set about confronting *Sendero* while at the same time seeking popular support for the counterinsurgency effort.

Arciniega's civic action strategy was to win over *Sendero*'s social base, the *cocaleros*, by permitting them to continue planting coca while urging that the government help them to substitute other crops. He was also publicly critical of DEA's programs and methods. "We have to make a distinction between the peasant grower and the narco trafficker...The first must be brought out of his marginality, the second must be repressed. What the DEA does is to repress the two equally," noted Arciniega. "And if we do that, that is if we repress fifty thousand *cocalero* peasants, in a short time we have fifty thousand recruits or collaborators of *Sendero*. We cannot corner them like wounded beasts, we must give them an

⁷⁹ Some Peruvian analysts have suggested that the *Sendero* attack on the police post in Uchiza -- described below -- was a response to this "experimental" application.

⁸⁰ See section VI.

opportunity to change..."⁸¹ Thus Arciniega showed support for initiatives like the formation of the *Cooperativa Agraria del Alto Huallaga*, an organization dedicated to promoting projects of crop substitution and agricultural development.

Militarily, Arciniega beat back *Sendero* for three months, until the insurgents decided to retreat from open engagement in the zone. The culminating battle took place in late July 1989, when *Sendero* attacked a military base in Madre Mía, where materials were being stored for the construction of the anti-drug base in Santa Lucía. After four hours of battle, according to Gen. Arciniega, there were sixty subversives dead and nine army dead; eight enemy rifles were recovered. Such direct confrontations, combined with engagements in villages and the active pursuit of *Sendero* cadres, gave the army its first significant victories over *Sendero* in the region.

The human rights cost of the strategy appears to have been high, however. The Upper Huallaga is the most difficult area in which to gather human rights data because of the security situation and the problems of access, but a study of politically-related deaths throughout Peru shows that their incidence rose dramatically in the Upper Huallaga between April and July 1989.⁸² Some of the dead were certainly combatants; Arciniega's own declarations, however, suggest that many unarmed civilians may have died because the army considered them sympathizers of *Sendero*.

It is sufficient here to mention the bombardment of La Morada, in the department of Huánuco, on July 6, 1989, which Arciniega sought to justify by saying, "It was the residents of La Morada who warned a column of *Sendero Luminoso* of the presence of a military patrol near the hamlet."⁸³ Twenty people died in that army attack, though as civilians the

⁸¹ Quoted in IDL, *En la Espiral de Violencia*, *op. cit.*, p. 72.

⁸² COMISEDH, *Violencia Política en el Perú*, *op. cit.* pp. 8-10. In Leoncio Prado province, in Huánuco, there were 166 deaths, concentrated in June. In Tocache province, San Martín, 195 deaths occurred, the vast majority in July.

⁸³ IDL, *En la Espiral de Violencia*, *op. cit.* p. 70, quotation taken from an article in *SÍ* magazine. This case is also mentioned in section VII.

residents of La Morada were not legitimate targets. While the Interior Minister was estimating a total *Sendero* presence in the Upper Huallaga of one thousand combatants, Gen. Arciniega was claiming to have eliminated more than seven hundred. And he was registering virtually no wounded. Nor were the publicized numbers of recovered arms so large as would be supposed had all the dead been combatants.

When *Sendero* shifted tactics after the July battle at Madre Mía, and settled into the use of selective terrorism which typifies its method elsewhere in Peru, the army responded also as it does elsewhere, with disappearances, torture and arbitrary arrests. This shift, like the human rights abuses that accompanied the earlier confrontational strategy, highlights the enormous dangers attendant on a policy of purely military response to *Sendero*.

The civic-action component of Arciniega's strategy was not backed by any long-term government initiative for the development of the zone. Equally important, it was not backed by consistent official support for the formation of broad peasant organizations that could act, over the long term, as the peasants' own political representatives with the government or the traffickers. So long as *Sendero* could represent itself as a benefactor to the *cocaleros* (who have no other), the army regarded that population as suspect, and so long as the army and police represented contradictory government strategies, *Sendero* could utilize that contradiction to maintain some measure of popular support. The peasants, whose interest is less in cultivating coca than in cultivating whatever will permit them to live safely and sell their crops at reasonable prices, are targets from four sides: the traffickers, *Sendero*, the police, and the military.

Gen. Arciniega was transferred in December 1989, well before his year-long appointment expired. He had been accused by Melvyn Levitsky, U.S. Assistant Secretary of State for International Narcotics Matters, of colluding with the traffickers, a charge that was not publicly supported with evidence and that was interpreted by some Peruvian observers as politically motivated. Like so many accusations in Peru, this one has not been investigated. Its timing and results, however, led to speculation that Arciniega's demise was due to his having criticized the DEA's program and objectives.

Arciniega's successor was more comfortable with the DEA presence in the region. But his tenure was brief precisely because one of his subordinates was caught colluding in a drug shipment. The new chief of the Political-Military Command, Army Gen. Mario Brito, assumed the post in March 1990.

In the meantime the Cartagena summit, which brought together the Presidents of Peru, Bolivia, Colombia and the United States in February 1990 to coordinate a strategy on drugs, encouraged many Peruvians in that its final document referred not only to repression of the drug traffic at its source but also to controlling consumption and seeking economic alternatives. But the attitude of U.S. representatives on the ground in Peru apparently did not echo this broad conception of the problem. In a letter to President Bush following the Cartagena summit, the *Cooperativa Agraria del Alto Huallaga* based in Uchiza, the most important regional grouping of peasants organized for crop substitution, stated, "We have spoken with many of your representatives, it seems that they do not faithfully transmit our intentions, which leads us to sense that they wish the problem to continue." The peasants' disgust is perhaps due to their having labored for three years to build a hope of development solutions among their neighbors, and their fear that without timely support these efforts will be vitiated as violence takes over the zone.

Peasants arguing for crop substitution programs are seeking an initial State investment in infrastructure, seeds and other basic goods, and the promotion of adequate conditions such as roads for the marketing of their crops. They also argue that now is the time to make the commitment to crop substitution, for economic as well as political reasons: the price of coca has fallen dramatically, and *Sendero* has been unable to affect the price.

Since September 1989, the price of coca leaf has declined to US 40-50 cents per kilo, about half the peasants' cost of production. This is compared to a past price of US \$2 to a maximum US \$3 per kilo, which permitted the peasants to live at slightly better than subsistence level.⁸⁴

⁸⁴ The falling price appears to be due, at least in part, to the advances that the U.S. and Colombian governments have made in disrupting the Colombian cartel operations, which in turn disrupted the operations of the Colombians' middle-men

The lowest point was in early 1990; recently the price has begun to rise slightly, in what some observers believe to be a response to poor harvests in Bolivia, but as noted, it remains well below the cost of production.

In early 1990, *Sendero* attempted to enforce a united front among the *cocaleros* such that they would refuse to sell until higher prices could be negotiated, but the economic desperation of the small growers led many to defy *Sendero* and sell. The price remained low, and *Sendero* lost face. These conditions, argue development specialists in the Upper Huallaga, are propitious for the launching of a crop substitution program. Estimates on the cost of such a program vary widely, and the potential for embezzlement of funds is always great. But projects underway, assisted by the United Nations Development Program, have laid the basis for at least a limited substitution plan and possible oversight.

Drug eradication efforts, meanwhile, have repeatedly been associated with abuses of peasants' rights. It is well known in Peru that police, whose regular wages earn them barely enough to live, pay bribes to their superiors in order to be assigned to the Upper Huallaga because of the opportunities for enrichment there. While the traffickers can afford to pay off police, the peasants cannot. According to peasant representatives from the Upper Huallaga interviewed by Americas Watch in May 1990, the police working with DEA "totally confuse" the civilian population with the traffickers. Peruvian television news on May 6, 1990, carried interviews with residents of Uchiza who spoke of DEA agents as participating in police abuses such as violent raids on homes and physical mistreatment. U.S. officials strongly questioned these statements, and Americas Watch is not aware of any formal accusations against DEA agents. Nonetheless, what is evident is that, in the local perception, DEA is identified with abusive and unpopular police practices.

The logic of the U.S. military aid proposal is that, without eliminating or at least controlling *Sendero*, it is not possible to pursue the drug traffickers efficiently, and without U.S. training, the army may do no better than it has in the past.⁸⁵ This logic may make sense in a

in Peru.

⁸⁵ U.S. officials identify *Sendero* with the traffickers, an analysis that is contested

counterinsurgency context, but combined with an anti-narcotics objective it has some serious flaws.

The first is that coca eradication in the Upper Huallaga is not a purely military problem, just as *Sendero's* existence and expansion are not purely military problems. The only areas of Peru where *Sendero* has been successfully excluded, or where it is now penetrating with most difficulty, are areas where the population is autonomously organized around economic interests, has voluntarily assumed self-defense and has sufficient political influence -- through *campesino* federations and other such organizations -- to achieve some economic advances. This is the case, for example, in the department of Puno. The Upper Huallaga valley, as an immigrant area, does not have a history of strong local organization. It is arguable, however -- and organizations like the *Cooperativa Agraria del Alto Huallaga* argue tenaciously -- that local initiatives can be strengthened if the government of Peru, and foreign governments like that of the United States, assist peasants to organize around economic issues and follow up with aid to facilitate the marketing of alternative crops. Militarizing the situation, as the U.S. proposes to do it, would undermine the political advances achieved by peasant organizers so far and make further advances extremely difficult, if not impossible.

A second flaw in the U.S. strategy, especially as regards the presence of Green Berets in the Upper Huallaga, is that the direct involvement of U.S. personnel would permit *Sendero Luminoso* to claim that its war against the Peruvian State is also a war of national sovereignty, an anti-imperialist war. The unpopularity of DEA's past efforts has played into *Sendero* hands; equally or more so would the presence of Green Berets engaged in anti-drug training. The U.S. military personnel would themselves become preferred targets of *Sendero*, as DEA program workers have been. Indeed there are signs that *Sendero* has wished for some time to provoke just this situation and expects to gather support from it.

Both of these considerations point to the likelihood that, in the

by Peruvians familiar with both the insurgency and the Upper Huallaga. Historically, *Sendero* has had an adversary relationship with traffickers, reflecting the peasants' own ambivalence.

scenario proposed by the United States, the civilian population of the Upper Huallaga would be viewed as suspect by the Peruvian military. In such conditions, which the U.S. presence would partially define, Americas Watch is deeply concerned that peasants will be victimized, and in large numbers.

At the same time, the U.S. presence and further militarization of the zone are likely to increase its isolation, leaving peasants even more vulnerable to abuses in the absence of monitoring by the press and human rights organizations. Already the Upper Huallaga is largely inaccessible to the press; foreign reporters may take a U.S.-sponsored air trip to the Santa Lucía anti-drug base in San Martín, but neither they nor their Peruvian counterparts can travel safely outside major towns like Uchiza.⁸⁶ News of abuses in isolated areas, although it does often reach the press, tends to arrive slowly, so that it is too late for human rights groups or official investigators to gather fresh evidence or to check the military's version of events. Human rights groups already find the Upper Huallaga the most difficult zone in which to gather information on abuses by either side.

Where military abuses are concerned, the state of military justice in Peru offers no prospect of effective prosecutions or redress for victims. And past experience shows that impunity serves to encourage the continuation of abusive practices. Moreover, as elsewhere in Peru, further militarization would tend to reduce the presence and independence of civilian authorities, such as judicial personnel who are capable of pursuing human rights complaints. We have noted a complaint of disappearances made during 1989 by a local prosecutor from the Upper Huallaga area.⁸⁷ Such initiatives are rare and courageous enough under current conditions. Unless the new government commits itself to protecting and building up the legal system in the Upper Huallaga, that system will have even greater difficulty in criticizing the army under the high-stakes conditions of a war pursued with international aid.

⁸⁶ See in section VI, for example, the murder of American freelance journalist Todd Smith.

⁸⁷ See section VII.

The United States could not hope to remain aloof from abuses committed by the forces it trains. U.S. officials in Lima have told Americas Watch that the training given to the Peruvian forces would contain a human rights component, but also admitted that this would not be a large component of the program. They pointed to oversight by the Embassy's Military Group as a further deterrent to abuses, and said that the U.S. was already encouraging the army in civic action, such as medical aid, as a complement to the military strategy. We are concerned, however, that, given the nature of the counterinsurgency and anti-narcotics efforts to date, and the difficulties of monitoring in isolated areas, serious abuses will keep occurring. The United States would become an indirect party to those abuses.

Finally, Americas Watch is concerned that the widening war in the Upper Huallaga will force the dislocation of peasants there and create a population of internal refugees. Peasant organizers from the Uchiza area told Americas Watch in May 1990 that, when the military expected *Sendero* attacks in the environs of the Santa Lucía anti-drug base around the time of the April 8 first-round Presidential vote, residents of the area were advised by the army to leave and stay away for two weeks before the elections and two weeks after. Residents did not leave, and one result was the disappearance of about a dozen young people from a hamlet across the river from the base, on April 9, 1990.⁸⁸ Evacuations, either "suggested" or forced, are likely to multiply as the war widens, creating social upheaval and placing the Peruvian military authorities in charge of yet another unmanageable crisis. Depending on the military's treatment of the displaced population, the United States could be implicated in abuses which come under international humanitarian law.

We outline these dangers not with the intention of painting the worst picture, but of presenting a realistic one. Although U.S. officials have recently sought to convince Congress that human rights abuses by the Peruvian military and police are not serious, the facts are otherwise. To engage the military in the counternarcotics "war" is to force a confrontation with civilians whose security and economic development are

⁸⁸ See section VII.

necessary for winning the counterinsurgency war. Those civilians have already been victimized from many sides. And there are serious questions to be asked about potential conditions like massive displacement -- or for that matter, military promotion of civilian self-defense patrols -- where these could involve troops trained by the United States. U.S. human rights law, which is being waived or ignored in the proposal for military and police aid to Peru, was drafted with good reason. As one U.S. official has said of the military aid plans in Peru, "I don't think any of us really knows how complicated this will be."⁸⁹

⁸⁹ "The Next Nasty War?" Newsweek, May 21, 1990.

IN DESPERATE STRAITS:

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of Democracy and Insurgency**

August 1990

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In Desperate Straits: Human Rights in Peru after a Decade of Democracy and Insurgency.

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Printed in the United States of America.

ISBN: 0-929692-64-0, (Spanish version: 0-929692-65-9).

Library of Congress Catalog Card Number: 90-83334.

Cover design by AMW Graphics.

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