

SUMMARY AND CONCLUSIONS

THREE BASIC FACTS DETERMINE AMERICAS WATCH'S POSITION ON U.S. MILITARY AID TO PERU. THEY ARE SET OUT IN THIS REPORT THROUGH EXAMPLES AND ANALYSIS. THOSE FACTS ARE:

- UNIFORMED AND NON-UNIFORMED AGENTS OF THE PERUVIAN STATE -- ARMY, NAVY, POLICE, CIVIL DEFENSE PATROLS AND PARAMILITARY DEATH SQUADS -- CARRY OUT EXECUTIONS, DISAPPEARANCES AND TORTURE WITH A FREQUENCY WHICH REVEALS THESE CRIMINAL PRACTICES TO BE INTEGRAL TO THE COUNTERINSURGENCY POLICY;
- THE CRIMINAL AND INHUMAN PRACTICES OF ARMED STATE AGENTS OCCUR WITH IMPUNITY: PRESIDENT ALBERTO FUJIMORI AND HIS AIDES GENERALLY APPEAR INCAPABLE AND OFTEN UNWILLING TO PUT A STOP TO ABUSES, DESPITE HIGH-SOUNDING STATEMENTS TO THE CONTRARY; AT TIMES, SOME SENIOR OFFICIALS HAVE COVERED UP OR SOUGHT TO LEGITIMIZE COVER-UPS OF HUMAN RIGHTS ABUSES; AND
- DESPITE PERUVIAN OFFICIALS' ASSURANCES THAT THESE CONDITIONS CAN BE CHANGED IN TIME TO ADDRESS U.S. CONSTRAINTS ON AID FOR FY 1991, THE PROBLEMS OF IMPUNITY, CORRUPTION AND SOCIAL FRAGMENTATION IN PERU ARE IN FACT AGGRAVATED BY THE COUNTERINSURGENCY STRATEGY BEING PURSUED; A FAR BROADER AND LONGER-TERM EMPHASIS ON SOCIAL DEVELOPMENT AND ON STRICT COMPLIANCE WITH INTERNATIONAL HUMAN RIGHTS STANDARDS IS REQUIRED IF THE POPULATION IS NOT TO BE FURTHER VICTIMIZED AND PERUVIAN DEMOCRACY FURTHER WEAKENED.

AMERICAS WATCH DOES NOT IN ANY WAY SEEK TO IGNORE THE SERIOUSNESS OF THE INSURGENT THREAT IN PERU. SENDERO LUMINOSO IN PARTICULAR IS BOTH BRUTAL AND EFFECTIVE; THE ORGANIZATION IS RESPONSIBLE FOR AS MANY CIVILIAN DEATHS AS ARE OFFICIAL FORCES; ITS STEADY GROWTH PRESENTS A GENUINE CHALLENGE TO THE PERUVIAN STATE, AND ITS TERRORIST TACTICS ENDANGER THE RIGHTS OF ALL PERUVIANS. THIS REPORT DESCRIBES THE ACTIVITIES AND ABUSES OF SENDERO LUMINOSO AND THE OTHER MAJOR GUERRILLA GROUP, THE MOVIMIENTO REVOLUCIONARIO TUPAC AMARU (MRTA), DURING THE FUJIMORI GOVERNMENT'S FIRST YEAR. SENDERO ABUSES INCLUDE EXECUTIONS AND TORTURE ON A LARGE SCALE, AS WELL AS FORCED RECRUITMENT AND PSEUDO-TRIALS OF PRISONERS; ALL THESE FORMS OF ABUSE VIOLATE THE RELEVANT LAW OF WAR, AND AMERICAS WATCH CONDEMNS THEM IN THE STRONGEST POSSIBLE TERMS.

SENDERO'S CONTINUED GROWTH PROVOKES COMPASSION FOR PERU AND THE PERUVIAN GOVERNMENT. AND THE CURRENT GOVERNMENT HAS INHERITED THE FAILURES OF ITS PREDECESSORS, WHICH, DESPITE BROAD PUBLIC CRITICISM AND DEBATE, CEDED AUTHORITY TO THE MILITARY AND APPROVED A COUNTERINSURGENCY PROGRAM BOTH INHUMAN AND INCOHERENT. YET THE FACT THAT PERUVIAN GOVERNMENTS HAVE FAILED FOR A DECADE TO CURB SENDERO OR PROTECT THE RIGHTS OF PERUVIANS DOES NOT MEAN THAT THE CURRENT GOVERNMENT'S RESPONSIBILITY FOR ABUSES CAN BE GLOSSED OVER. AMERICAS WATCH DOES NOT CONSIDER PRESIDENT FUJIMORI DIRECTLY INVOLVED IN ABUSES. BUT HE HAS TOLERATED THEM. AND HE HAS NOT CORRECTED THE ERRORS OF PREVIOUS GOVERNMENTS; HE HAS, RATHER, RETREATED FROM CAMPAIGN PROMISES AND MADE A CLOSE ALLIANCE WITH THE MILITARY, WHOSE RESULT IS A REPETITION OF PAST MISTAKES. SO LONG AS THE COUNTERINSURGENCY PROGRAM REMAINS FOCUSED ON MILITARY REPRESSION AND FAILS TO ADDRESS THE NEED FOR DEVELOPMENT, THAT PROGRAM WILL CREATE CONVERTS FOR SENDERO. MILITARY EXPERTS HAVE SAID THIS, EVEN ACTIVE-DUTY MILITARY COMMANDERS IN PERU HAVE SAID IT, AND PRESIDENT FUJIMORI DECLARED IT AS A CANDIDATE; BUT HE HAS FORGOTTEN IT AS AN INCUMBENT.

IN CERTIFYING PERU FOR MILITARY AID FOR FY 1991, THE U.S. STATE DEPARTMENT MADE REFERENCE TO SUPPOSED IMPROVEMENTS IN THE PERUVIAN HUMAN RIGHTS SITUATION UNDER FUJIMORI. THE CERTIFICATION IS CAREFULLY WORDED AND MISLEADING; AMERICAS WATCH HAS DISSECTED AND CRITIQUED THAT DOCUMENT ELSEWHERE.¹ THIS REPORT WAS NOT WRITTEN AS A RESPONSE TO THE CERTIFICATION, BUT ITS CONTENTS MAY SERVE AS A RESPONSE, FOR OUR RESEARCH INDICATES THAT HUMAN RIGHTS CONDITIONS IN PERU ARE WORSENING OVERALL. DESPITE A FEW GESTURES TOWARD MEETING U.S. STANDARDS, THE PERUVIAN GOVERNMENT HAS YET TO PROVIDE VITAL MORAL LEADERSHIP OR TO BRING THE MILITARY UNDER MORE EFFECTIVE CIVILIAN CONTROL.

AMERICAS WATCH RECOMMENDS THAT NO U.S. MILITARY AID BE GRANTED FOR PERU UNTIL THE FOLLOWING BASIC CHANGES ARE MADE:

(1) PUNISHMENT OF MILITARY OFFICERS RESPONSIBLE FOR GROSS ABUSES OF HUMAN RIGHTS. AS OF THIS WRITING, IN ELEVEN YEARS OF CONFLICT NOT A SINGLE MILITARY OFFICER HAS BEEN CONVICTED AND SANCTIONED FOR HUMAN RIGHTS ABUSE IN THE EMERGENCY ZONES; SOME INDEED HAVE BEEN PROMOTED, INCLUDING TWO GENERALS PROMOTED AT THE INSISTENCE OF PRESIDENT FUJIMORI. FURTHER, PRESIDENT FUJIMORI ATTEMPTED TO LEGISLATE A GUARANTEE OF IMPUNITY FOR ABUSIVE MILITARY OFFICERS, AND WAS ONLY STOPPED BY SUSTAINED CONGRESSIONAL OPPOSITION.

(2) DISMISSAL OF ANY CIVILIAN OFFICIAL WHO ATTEMPTS TO COVER UP POLITICAL EXECUTIONS, DISAPPEARANCES OR OTHER GRAVE HUMAN RIGHTS ABUSES. FUJIMORI'S DEFENSE MINISTER HAS ATTEMPTED TO MISLEAD A CONGRESSIONAL INVESTIGATIVE PANEL ABOUT A MAJOR MASSACRE; HIS JUSTICE

¹ AMERICAS WATCH LETTER TO SECRETARY OF STATE JAMES BAKER III ON SEPTEMBER 9, 1991.

Minister has equated human rights investigations with nuisance. Firmer leadership -- and a clearer stance on the importance of independent human rights investigations -- are needed from the President himself.

(3) Adequate financing and greater political support for prosecutors carrying out human rights investigations. Local prosecutors find their work blocked by the military, and are sometimes directly intimidated. The government has recently ordered that prosecutors be given the access to barracks and military posts that they ought to enjoy; it remains to be seen whether the military cooperates. Proof of serious support for law enforcement on human rights would be the appointment of -- and subsequently, clear, sustained political backing for -- a special prosecutor on disappearances like the one who served briefly in the mid-80s.

(4) Creation of a central registry of detentions, to permit relatives, human rights monitors, lawyers and the press to know the location and status of detainees and as a measure to discourage disappearances.

(5) Access by the International Committee of the Red Cross to all political and security-related detainees, no matter their place of detention, immediately after arrest. The current practice of permitting erratic access to police facilities, and none to military facilities in the emergency zones, is wholly inadequate to ensure protection for detainees. The State Department's "determination" on Peru misrepresents this situation. Meanwhile, the May 1991 "framework agreement" between the United States and Peru refers to the need for "unrestricted" ICRC access to detainees; until this goal is met, there can be little hope of curbing disappearances and torture in the emergency zones.

(6) Conversion of village paramilitary patrols into purely defensive forces, formed voluntarily and in accordance with democratic procedures developed by the villagers themselves. The patrols -- a major emphasis of the Fujimori government's counterinsurgency plans -- are often themselves agents of abuse. Official human rights figures suggest that civil patrols contribute to political violence rather than to curbing it. Unpaid, little trained, and usually coerced into service, patrolers often serve as a supplementary force for the army on dangerous patrols, facing more danger with less protection. The patrols constitute militarization that undermines traditional communal authority in areas where life is already precarious.

(7) An end to intimidation of the press and human rights monitors, and unrestricted access for these researchers into areas of conflict and sites of investigation. Like legal representatives, the press and human rights monitors provide a vital service to the public and to victims of abuse; their work and their own lives deserve public, sustained respect from the executive and the military.

Americas Watch, in addition, urges that the Peruvian government take steps to remedy conditions in the nation's prisons and for the tens of thousands of citizens displaced by political violence. President Fujimori has shown sensitivity to the plight of prison inmates, but a great deal more is required. The displaced, meanwhile, are a growing population whose problems cannot be addressed adequately by private groups; the State must recognize its responsibility to these victims.

Finally, Americas Watch wishes to note that the composition of U.S. aid proposals has changed over the past year and, we believe, improved due to U.S. responses to the observations and criticisms of Peruvians and the international human rights movement. The human rights language in the July 1991 military aid agreement with Peru, the somewhat more thoughtful approach to the use of non-military funds, the announced intent to seek the opinions of representative Peruvian organizations on the creation of alternatives -- these are steps forward. We cannot debate the potential effectiveness of the aid for anti-narcotics policy, as that is not our purview; we only note, in this report, the relevance of pervasive corruption in the Peruvian police and military forces, as this relates both to aid and to human rights conditions.

Having studied human rights violations in Peru for eight years, however, we believe that the granting of military aid would involve the United States in gross abuses. This is, finally, the risk the Bush Administration has decided to take: that in Peru, U.S. aid will be used to facilitate murder, disappearance, torture. Americas Watch does not consider this an acceptable risk, given the performance of the Peruvian military and Fujimori government to date.

I. ABUSES BY STATE AGENTS

PRESIDENT FUJIMORI CANNOT SPEAK OF A NEW ANTI-SUBVERSIVE STRATEGY, AND EXPECT ANYONE TO BELIEVE HIM, IF THE SYSTEMATIC AND MASSIVE VIOLATION OF HUMAN RIGHTS PERSISTS IN PERU ...THE ONLY THING THIS DOES IS PERMANENTLY FEED THE SUBVERSION.

— FERNANDO ROSPIGLIOSI, COLUMNIST
CARETAS MAGAZINE, LIMA, JULY 1991²

THE COUNTERINSURGENCY POLICY IN PERU, SINCE 1990 WHEN SENDERO LUMINOSO OPENLY DECLARED ITS INTENTION TO OVERTHROW THE STATE, HAS BEEN TO DECLARE DEPARTMENTS (STATES), OR PROVINCES WITHIN THOSE DEPARTMENTS, UNDER EMERGENCY CONTROL. IN THESE CIRCUMSTANCES, A JOINT MILITARY COMMAND EXERCISES THE AUTHORITY OF GOVERNMENT AND THE CIVILIAN AUTHORITIES BECOME A JUNIOR PARTNER FOR THE DURATION OF THE EMERGENCY. THE SIXTY-DAY STATES OF EMERGENCY, IMPOSED ON THE PRESIDENT'S SOLE AUTHORITY, HAVE BEEN RENEWED REGULARLY IN SOME PARTS OF THE COUNTRY FOR THE PAST DECADE, WHILE IN OTHERS THE PRACTICE IS MORE RECENT. ALBERTO FUJIMORI HAS NOT ALTERED THIS POLICY; INDEED, DURING THE FIRST YEAR OF HIS GOVERNMENT THE STATE OF EMERGENCY SPREAD MORE WIDELY THAN AT ANY PREVIOUS TIME: BY APRIL 1991, 55 PERCENT OF THE POPULATION WAS LIVING UNDER EFFECTIVE MILITARY CONTROL AND THE NATIONAL TERRITORY AFFECTED HAD SPREAD TO NEARLY 40 PERCENT.³

THE SCOPE OF MILITARY AUTHORITY DURING THE STATE OF EMERGENCY IS AN INVITATION TO ABUSE. WITH THE STEADY EXPANSION OF EMERGENCY ZONES, BY ORDER OF THE PRESIDENT OF THE REPUBLIC, MORE THAN HALF THE POPULATION HAS EXPERIENCED SUSPENSION OF THE LEGAL EXERCISE OF SEVERAL BASIC RIGHTS, INCLUDING THE RIGHT TO PUBLIC ASSEMBLY AND THE RIGHT TO FREE MOVEMENT; EQUALLY FUNDAMENTAL, DURING A STATE OF EMERGENCY THE SECURITY FORCES MAY ENTER THE HOME AND CARRY OUT ARRESTS WITHOUT WARRANTS. ALTHOUGH OTHER RIGHTS ARE NOT LEGALLY SUSPENDED, ACTUAL CONDITIONS IN THE ZONES UNDER STATE OF EMERGENCY INCLUDE EXECUTIONS, TORTURE, DISAPPEARANCE, MYRIAD VIOLATIONS OF DUE PROCESS,⁴ PARAMILITARY ACTIVITY SANCTIONED BY THE STATE AND HARASSMENT OF THOSE PROVIDING INFORMATION SUCH AS JOURNALISTS AND HUMAN RIGHTS ACTIVISTS. MANY VIOLENT ABUSES IN PERU, PERHAPS EVEN A MAJORITY OF THEM, ARE COMMITTED BY INSURGENTS; WE DEAL WITH THOSE IN A SEPARATE SECTION. HERE WE ARE CONCERNED WITH THE GOVERNMENT'S RESPONSE TO THE INSURGENCY INsofar AS THAT RESPONSE INVOLVES GROSS VIOLATIONS OF THE RIGHTS OF CIVILIANS.

THERE IS A BROAD CONSENSUS IN PERU — AN UNAVOIDABLE CONSENSUS, GIVEN SENDERO LUMINOSO'S CONTINUAL GROWTH — THAT THE COUNTERINSURGENCY POLICY IS A FAILURE. IN MILITARY TERMS, AND EVEN MORE IN TERMS OF ITS INABILITY TO MOBILIZE THE POPULATION BEHIND A LONG-RANGE SOLUTION, SUCCESSIVE GOVERNMENTS ARE RECOGNIZED TO HAVE, IF NOT LOST THE WAR, AT LEAST FAILED FOR A DECADE TO PRESENT A WINNING AGENDA. THE NEW GOVERNMENT SWEEP INTO OFFICE PRECISELY BECAUSE OF POPULAR DISGUST WITH THE OLD FACES AND OLD ABUSIVENESS. YET IN THE FIRST YEAR OF PRESIDENT FUJIMORI'S GOVERNMENT, THERE HAS BEEN NO FRESH COHERENCE IN COUNTERINSURGENCY THINKING OR PROTECTION FOR THE POPULATION. THE ONLY "NEW" ELEMENT IS IN FACT ONE WITH AN ALREADY LONG AND CHECKERED HISTORY: THE CREATION AND ARMING OF MORE VILLAGE CIVIL-DEFENSE PATROLS, A SUPPLEMENTARY FIGHTING FORCE THAT IS NEITHER ADEQUATELY TRAINED NOR PAID, AND WHOSE CONDUCT IS BECOMING AN ADDITIONAL HUMAN RIGHTS PROBLEM OF LARGE PROPORTIONS.

RECENTLY, IN CONJUNCTION WITH ITS EFFORTS TO OBTAIN U.S. MILITARY AID, THE FUJIMORI GOVERNMENT HAS ANNOUNCED PLANS FOR SEVERAL MEASURES IN AREAS OF CONCERN TO THE NATIONAL AND INTERNATIONAL HUMAN RIGHTS MOVEMENT. ONE MEASURE, AN ORDER THAT LOCAL PROSECUTORS HAVE ACCESS TO MILITARY DETENTION CENTERS, HAS RECENTLY BECOME LAW. IT IS TOO SOON TO TELL WHETHER THIS WILL TRANSLATE INTO SUSTAINED MILITARY COOPERATION WITH LEGAL INVESTIGATORS. MEANWHILE, WITHOUT IGNORING THE COMPLEXITY OF PERU'S SECURITY SITUATION, OR THE URGENCY OF THE NEED TO COMBAT SENDERO EFFECTIVELY, AMERICAS WATCH CONSIDERS THAT THE COUNTERINSURGENCY POLICY, CONSISTENTLY ASSOCIATED WITH MASSIVE HUMAN

² "COMPLICIDAD INSTITUCIONAL," *CARETAS*, JULY 1, 1991, P. 25. THE AUTHOR WAS ANALYZING A TRIPLE MURDER BY POLICE — SEE THE RODRÍGUEZ PÍGHI/GÓMEZ PAQUİYAURI BROTHERS CASE BELOW.

³ PRECISE FIGURES: 55.96 PERCENT AND 39.26 PERCENT, RESPECTIVELY. COMISIÓN DE ESTUDIO Y ACCIÓN PARA LA PAZ (CEAPAZ), CITING ITS OWN BANCO DE DATOS AND THE STATISTICAL ALMANAC, "PERÚ EN NÚMEROS, 1990," OF CUANTO, S.A.

⁴ SOME OF THESE ARE DISCUSSED IN CHAPTER III, SECTION A.

rights abuses by State and State-supported agents for the past decade and up to the present, is obscuring solutions rather than contributing to them. Its broad statements notwithstanding, the Fujimori government has not departed from the old pattern of counterinsurgency tactics: the following overview provides a glimpse of the cost.

A. Political Executions

According to the official Peruvian investigative commission on violence -- the Senate Commission on Violence and Pacification, chaired by Senator Enrique Bernaldes -- in 1990 there were 3,452 deaths due to political violence, of which slightly less than half (1,512) were attributable to Sendero and slightly more than half (1,766) to the military, police, paramilitary groups and "peasant organizations" (i.e. civil defense patrols). These deaths for a single year represented 15 percent of the total deaths in the years 1985-90. Some portion of the deaths occurred legitimately in combat, but although it is impossible to be precise, the Bernaldes Commission reported a confirmed figure of 1,584 civilian victims, with the warning that, of the 1,542 dead labeled subversives by the military, some may well have been civilians "since there are cases in which there is lack of proof, of personal identification and judicial verification to establish the situation and real condition of the persons who have died."⁵ Peruvian human rights organizations report that many of the more than 1,700 Peruvians killed by a combination of State and State-sponsored agents during 1990, as in previous years, were in fact civilians, including children and old people.

During 1991, through July, the dead from political violence totaled 1,620, and June 1991 was the bloodiest month in the eleven years of conflict, with an average of 19 people dying daily for political reasons.

In the first year of Fujimori's term (July 1990 - July 1991), according to Bernaldes Commission figures, 3,106 Peruvians died in political violence. This is in no way an improvement over previous conditions.⁶

The defensiveness that marked the late Garcia government (1985-90) with regard to political killings has also characterized Fujimori's first year. The President attempted, unsuccessfully, to legislate impunity for military violators of human rights in December 1990, with an Executive Decree, No. 171, that would have defined any criminal act by a soldier in an emergency zone -- at any time of day, whether or not on patrol -- to be an "act of service" and therefore the province of military courts, whose proceedings are secret; moreover, the decree would have legalized the practice whereby members of the armed or police forces refuse to divulge their real names and hide behind the use of a "cover name" or *chapa*.⁷ Fujimori's Minister of Justice has criticized human rights organizations for "demoralizing" the armed forces with revelations of abuses, implying that to defend the victims is somehow unpatriotic.⁸ And the Defense Ministry has declined to assist congressional investigators examining human rights abuses in at least one instance -- a major case, involving rape, torture and multiple murder by an army patrol in Chumbivilcas province, Cusco department in April 1990. Although the abuses took place before Fujimori came to power, and therefore do not fall within the period reviewed in this report, the conduct of the

⁵ Comisión Especial de Investigación y Estudio sobre la Violencia y Alternativas de Pacificación (Bernaldes Commission), *10 Años de Violencia en el Perú*, Senado de la República, Lima, January 1991, p. 22.

⁶ Figures of the Bernaldes Commission, quoted in Andean Commission of Jurists, *Andean Newsletter* No. 57, August 12, 1991, p. 6.

⁷ Decree 171 was presented on December 9, 1990. It became so controversial that Congress repealed it in February 1991.

The *chapa* dodge, already in common use, is sometimes explained as a measure to safeguard members of the security forces from insurgent reprisals, but it also permits the guilty to avoid identification by victims and the courts for purposes of prosecution for violent abuses.

⁸ See section F below.

DEFENSE MINISTRY UNDER FUJIMORI IS WORTHY OF NOTE HERE AS IT INVOLVED A CLEAR INTENT TO COVER UP THE CRIME: DEFENSE MINISTER TORRES ACIEGO SUGGESTED TO CONGRESSIONAL INVESTIGATORS THAT SUBVERSIVES HAD COMMITTED THE ATROCITIES; HIGH ARMY OFFICIALS SOUGHT TO MISLEAD THE INVESTIGATIVE PANEL ON TECHNICAL EVIDENCE AND TO CONVINCE THEM THAT WITNESSES COULD NOT BE TRUSTED; AND THE DEFENSE MINISTRY DECLINED TO FURNISH TRANSPORTATION THAT INVESTIGATORS NEEDED TO CONDUCT THEIR INQUIRIES AT THE SITE OF THE EVENTS. IN MAY 1991 THE COMMISSION WAS MOVED TO RECOMMEND LEGAL ACTION AGAINST NOT ONLY FORMER MILITARY OFFICIALS BUT ALSO AGAINST THE CURRENT DEFENSE MINISTER BECAUSE OF HIS OBSTRUCTIONIST ATTITUDE.

THE ATTEMPTED COVER-UP OF CHUMBIVILCAS WOULD NOT HAVE BEEN THE FIRST IN PERUVIAN HISTORY BY ANY MEANS; NOR WOULD DECREE 171 HAVE INVENTED IMPUNITY FOR MILITARY VIOLATORS OF HUMAN RIGHTS, WHICH IS ALREADY THE RULE. NO WORSE PERHAPS THAN ITS IMMEDIATE PREDECESSORS IN THESE RESPECTS, THE FUJIMORI GOVERNMENT HAS SHOWN ITSELF, HOWEVER, TO BE NO BETTER. A FEW CASES:

- ON MAY 3, 1991, MEN WITH THEIR FACES COVERED BY SKI MASKS ENTERED THE COMMUNITIES OF HUMAYA AND CHAMBARA, DISTRICT OF SAYÁN, HUÁURA DEPARTMENT. THEY SELECTED A TOTAL OF SIX VICTIMS IN THE TWO HAMLETS AND EXECUTED THEM WITH SHOTS TO THE HEAD. WITNESS STATEMENTS ALL COINCIDED IN IDENTIFYING THE ATTACKERS AS SOLDIERS FROM THE ARMY BASE IN ANDAHUASI WHO HAD DRESSED TO APPEAR AS GUERRILLAS, AND THE CASE WAS FORMALLY DENOUNCED TO THE GOVERNMENT'S PUBLIC PROSECUTOR BY THE LOCAL HUMAN RIGHTS COMMITTEE OF HUACHO.
- ON AUGUST 22, 1990, AND OVER SEVERAL DAYS FOLLOWING, IN IQUICHA, PROVINCE OF HUAMANGA, AYACUCHO -- THE HEART OF THE AREA WHERE SENDERO HAS BEEN LONGEST ACTIVE -- TWELVE PEASANTS WERE KILLED OUTRIGHT, ANOTHER THREE DISAPPEARED AND SUBSEQUENTLY ANOTHER WAS MURDERED, AT THE HANDS OF THE ARMY AND CIVIL PATROLLERS UNDER ARMY COMMAND. THE VICTIMS, FRIGHTENED AND NOT WISHING TO DIE, HAD NOT JOINED THE NEIGHBORING COMMUNITIES' PATROLS FOR AN AUGUST 19 CLASH WITH SENDERO AND WERE THEREFORE CONDEMNED AS REBEL SYMPATHIZERS. AFTER A NIGHT OF TORTURE THE TWELVE WERE KILLED BY BLOWS TO THE HEAD WITH HEAVY STICKS AND ROCKS. RELATIVES -- AS WELL AS A JUDGE -- WERE PREVENTED BY THE ARMY FROM RECOVERING THE BODIES, WHICH WERE LATER BURNED IN THE VILLAGE PLAZA.

THE ARMY FREQUENTLY CLAIMS, LATER, THAT ITS VICTIMS WERE ARMED SUBVERSIVES. A RECENT CASE DEMONSTRATES THIS, AND OFFERS A PORTRAIT OF LIFE FOR PEASANTS CAUGHT BETWEEN SENDERO AND THE MILITARY AUTHORITIES:

- ON MAY 19, 1991, IN A TINY HAMLET CALLED PUNCOPIATA, NEXT TO THE COMMUNITY OF CHILLUTIRA IN PUNO DEPARTMENT, FOUR ARMED MEN ARRIVED AND DEMANDED THAT VILLAGERS GIVE THEM BICYCLES; THEY COMMANDEERED FOUR OF THE BETTER ONES, AND THE BIKES' OWNERS FOLLOWED THEM TO RECOVER THEIR PROPERTY. THE ARMED MEN, AND THE FOUR OTHERS, WENT TO HUANCATIRA HAMLET, IN CHILLUTIRA COMMUNITY; ON THE WAY THE ARMED MEN SHOT AND WOUNDED A NEIGHBOR. IN HUANCATIRA THEY ASKED FOR FOOD AND PRESENTED THEMSELVES AS SENDERO FIGHTERS. THE RESIDENTS SURROUNDED THE EIGHT STRANGERS AND ASKED THEM QUESTIONS ABOUT THEIR INTENT. AFTER WOUNDING TWO VILLAGERS, TWO OF THE ARMED MEN THEN ESCAPED, THE OTHERS WERE TIED. WHEN WORD CAME THAT THE FIRST WOUNDING VICTIM WAS IN SERIOUS CONDITION, MEMBERS OF THE COMMUNITY FELL UPON THE REMAINING TWO SENDERO CAPTIVES AND BEAT THEM TO DEATH. THE FOLLOWING DAY POLICE WERE NOTIFIED, AND POLICE AND SOLDIERS ARRIVED TO TAKE AWAY FOUR OF THE VILLAGERS ON CRIMINAL CHARGES, AS WELL AS THE BODIES OF THE TWO SENDERISTAS. SOME TWO HUNDRED PEOPLE SAW THE FOUR LIVE DETAINEES TAKEN AWAY WITH THE TWO CORPSES.

ON MAY 21, THE NEXT DAY, RADIO AYAVIRI ANNOUNCED THAT IN A SENDERO-ARMY CLASH IN ORURILLO (NO POLICE PRESENCE MENTIONED), SIX PRESUMED SUBVERSIVES HAD BEEN KILLED. THE WIVES OF THE FOUR DETAINEES, ALTHOUGH FIRST PREVENTED FROM ENTERING AYAVIRI'S HOSPITAL, LATER IDENTIFIED THEIR HUSBANDS THERE AMONG THE DEAD FROM THE SUPPOSED CLASH. THEY GAVE SWORN STATEMENTS AS TO THEIR HUSBANDS' BODILY CONDITIONS: ALL HAD BEEN DEEPLY CUT ALL OVER THEIR BODIES AND BORE BULLET WOUNDS AS WELL; THE HEAD AND FACE OF ONE, FRANCISCO ATAMARI MAMANI, HAD BEEN VIRTUALLY DESTROYED. BY CONTRAST THE BODIES OF THE DEAD SENDERISTAS KILLED IN ANGER BY THE VILLAGERS BORE FEWER WOUNDS.⁹

THE CHILLUTIRA CASE, AS IT HAS BECOME KNOWN, CONTAINS A NUMBER OF CRUCIAL ELEMENTS, AMONG THEM THE TRANSFORMATION OF DETAINED CIVILIANS INTO "PRESUMED SUBVERSIVES" AS A COVER-UP FOR ARMY BRUTALITY, AND THE MUTILATED STATE OF THE BODIES, WHICH SUGGESTS A TORTUROUS FORM OF KILLING.

POLICE ARE REGULARLY ASSOCIATED WITH ABUSES JUST AS GRAVE. FOR EXAMPLE:

- ON SEPTEMBER 24, 1990, POLICE IN SANTO TOMÁS, CUSCO DEPARTMENT, ARRESTED A STUDENT NAMED MARCELINO VALENCIA ALVARO; WHEN A FRIEND, ZACARÍAS PASCA HUAMANI, WENT TO THE PRECINCT TO INQUIRE ON BEHALF OF VALENCIA'S FAMILY, HE TOO WAS ARRESTED. FIVE DAYS

⁹ INFORMATION GATHERED BY COMISIÓN DE DERECHOS HUMANOS - PUNO (CODEH-PUNO), AND THE VICARIATE OF SOLIDARITY OF PUNO, DISSEMINATED BY THE ASOCIACIÓN PRO-DERECHOS HUMANOS (APRODEH).

LATER, AFTER TOWNSPEOPLE HAD REPEATEDLY DEMANDED NEWS OF THE YOUTHS, A CROWD FINALLY FORCED ITS WAY INTO THE POLICE STATION. THERE THEY FOUND THE BODIES OF BOTH YOUNG MEN BURIED IN A HOLE, SHOWING EVIDENCE OF TORTURE.

TWO SERIOUS RECENT CASES HAVE LED TO NATIONAL DEBATE ON HOW TO REFORM THE FORCE. IN THE SECOND CASE, A MEMBER OF THE CABINET TRIED TO MISLEAD THE PUBLIC ABOUT THE CRIME.

- ON JUNE 21, 1991 IN THE MORNING, POLICE EXCHANGED GUNFIRE WITH A GROUP OF ARMED ROBBERS IN MIRAFLORES, A RELATIVELY PROSPEROUS NEIGHBORHOOD OF LIMA. SOON THEREAFTER, A RADIO-PATROL PICKED UP TWO MINORS, THE BROTHERS EMILIO AND RAFAEL GÓMEZ PAQUIYURI AND A YOUNG MEDICAL STUDENT NAMED FREDY RODRÍGUEZ PIGHI IN CALLAO, ANOTHER NEIGHBORHOOD. BY CHANCE, REPORTERS FROM CHANNEL 5, WHO HAD BEEN FILMING THE SHOOT-OUT AND SUBSEQUENT POLICE OPERATIONS, CAPTURED THE ARRESTS ON VIDEO: THE TWO BROTHERS WERE STUFFED INTO THE TRUNK OF THE POLICE CAR, WHOSE LICENSE PLATE WAS ALSO CAUGHT ON VIDEOTAPE, AND RODRÍGUEZ WAS ALSO TAKEN AWAY. THE THREE YOUNG MEN WERE KILLED BEFORE THEY ARRIVED AT THE POLICE PRECINCT: SHOT AT CLOSE RANGE, SEVERAL BULLETS EACH.

WHEN THE VIDEOTAPE OF THE ARREST WAS SHOWN ON TELEVISION IT CAUSED A NATIONAL OUTCRY: AND AS A RESULT, FOUR SENIOR POLICE COMMANDERS WERE REMOVED FROM THEIR POSTS AND FIVE POLICE OFFICERS HAVE BEEN TAKEN OFF THE FORCE. A CIVILIAN COURT HAS THEIR CASE, BUT THE MILITARY COURTS HAVE ALREADY CONTESTED JURISDICTION AND, IF PRECEDENT IS ANY INDICATION, WILL MOST LIKELY WIN. EXPERIENCE SHOWS THAT ONCE A HUMAN RIGHTS CASE PASSES INTO MILITARY COURT IT ENDS IN EXONERATION FOR THE ACCUSED. EVEN THE FACT OF THE CASE'S REACHING WIDE PUBLIC NOTICE IS EXCEPTIONAL: MOST SUCH CASES OCCUR IN REMOTE AREAS, FAR FROM REPORTERS' CAMERAS, AND INVOLVE PERSONS LESS SOCIALLY VALUED THAN MEDICAL STUDENTS, AND REMAIN LARGELY UNKNOWN.

RECIPIENTS OF U.S. ANTI-NARCOTICS ASSISTANCE ARE AMONG THE OFFENDERS. A RECENT CASE WHICH DREW NATIONWIDE ATTENTION DESERVES MENTION HERE ALTHOUGH THE KILLINGS WERE NOT, STRICTLY SPEAKING, POLITICALLY-MOTIVATED, BECAUSE THE POLICE RESPONSIBLE ARE PART OF THE ANTI-DRUG FORCE IN THE UPPER HUALLAGA VALLEY COCA-PRODUCING REGION AND BECAUSE THEIR GROSS MISCONDUCT, WHICH INCLUDED MURDER, WAS NOT CONDEMNED APPROPRIATELY BY HIGH GOVERNMENT OFFICIALS: TO THE CONTRARY.

- ON JULY 9, 1991, A DETACHMENT OF POLICE IN BELLAVISTA, IN UCHIZA, SAN MARTÍN DEPARTMENT, WERE DRINKING HEAVILY TO CELEBRATE ONE COLLEAGUE'S RETURN AND ANOTHER'S GOING-AWAY. BEING ILL-PAID AND IN NEED OF LIQUOR, THE POLICE STOPPED CARS AND DEMANDED MONEY FROM THE DRIVERS: THIS SORT OF ILLEGAL "TOLL" IS COMMON POLICE PRACTICE.

A PLANE READYING FOR TAKEOFF AT THE BELLAVISTA AIRSTRIP, A COMMERCIAL FLIGHT WITH PILOT, CO-PILOT AND 15 PASSENGERS ON BOARD, SEEMED A POTENTIAL TARGET FOR A SHAKEDOWN BUT THE PILOT REFUSED TO LET THE POLICE ENTER AND INTIMIDATE THE PASSENGERS: INSTEAD, HE TRIED TO TAKE OFF. THE DRUNKEN POLICE THEN OPENED FIRE ON THE FLYING PLANE, IN THE PROCESS SHOOTING THE PILOT AND CO-PILOT TO DEATH; THE PLANE CRASHED AND ALL ON BOARD WERE KILLED. AFTER INFORMING THE REST OF THE POLICE CONTINGENT IN THE HAMLET, THE POLICE WHO HAD DONE THE SHOOTING AND THEIR COLLEAGUES WENT TO THE WRECKAGE AND RUMMAGED THROUGH THE BELONGINGS AND CLOTHING OF THE DEAD IN SEARCH OF VALUABLES.

THE LOCAL PROSECUTOR -- KNOWN AS AN ALLY OF THE POLICE -- ISSUED A STATEMENT CLAIMING TO THE PRESS THAT MRTA FIGHTERS HAD SHOT DOWN THE PLANE. LATER THE MINISTER OF INTERIOR ISSUED A COMMUNIQUÉ DESCRIBING THE POLICEMEN AS NOT DRUNK AND THE SCENE AS A PATROL ACTION CARRIED OUT IN THE MISTAKEN BELIEF THAT THE PLANE CARRIED DRUGS. THIS TRANSPARENT ATTEMPT TO MISREPRESENT THE CRIME WAS QUICKLY BELIED BY INVESTIGATORS, WHO LEARNED FROM BELLAVISTA RESIDENTS THAT THE PLANE WAS A REGULAR SERVICE, ITS PILOT WELL KNOWN AND THE POLICE FULLY AT FAULT. NONETHELESS THE INTERIOR MINISTER (AN ACTIVE-DUTY ARMY GENERAL) DID NOT OFFER HIS RESIGNATION, NOR DID PRESIDENT FUJIMORI DEMAND IT.

THE LOCAL PROSECUTOR WAS FIRED (NOT BY THE EXECUTIVE BUT BY THE *Fiscalía de la Nación*, AN AUTONOMOUS WATCHDOG AGENCY), AND FOUR POLICE WERE PUNISHED BY REMOVAL FROM THE FORCE AND MAY FACE CHARGES, ALTHOUGH RESIDENTS OF BELLAVISTA CLAIM THAT ALL THE POLICE PARTICIPATED TO SOME EXTENT.

WHILE THERE HAS BEEN AN EFFORT TO SANCTION THOSE MOST DIRECTLY RESPONSIBLE IN THESE TWO POLICE CASES, THE SAME CANNOT BE SAID FOR MILITARY VIOLATORS OF HUMAN RIGHTS. DEFENSE MINISTER TORRES ACIEGO HAS CLAIMED THAT MORE THAN 60 ARMY AND NAVY OFFICERS HAVE BEEN SANCTIONED FOR HUMAN RIGHTS ABUSES: A DEFENSE MINISTRY SPOKESMAN TOLD AMERICAS WATCH IN JULY 1991 THAT MORE THAN 30 WERE UNDER INVESTIGATION. BUT IT IS NOT POSSIBLE TO JUDGE THE TRUTH OF THESE ASSERTIONS BECAUSE MILITARY PROCEEDINGS ARE SECRET. AND IN PERU SUCH CLAIMS HAVE LITTLE CREDIBILITY. THE PRESTIGIOUS NEWSMAGAZINE *Caracas*, IN AN ARTICLE ABOUT THE MURDER OF THE THREE YOUNG MEN BY POLICE, COMMENTED DRILY THAT IT WOULD BE HEALTHY INDEED "IF THEY [THE MILITARY COMMAND] ACTED WITH THE SAME SPEED WHEN THOSE INVOLVED DID NOT

BELONG -- AS IN THIS CASE -- TO THE NATIONAL POLICE BUT TO THE RANKS OF THE ARMED FORCES WHEREIN, TO DATE, NO ONE HAS BEEN SANCTIONED, LET US NOT SAY DRASTICALLY, BUT NOT EVEN WITH THE PETAL OF A ROSE."¹⁰

¹⁰ "Histeria Criminal," [SUBTITLE TRANSLATES AS: "A WELL-PUNISHED EXCESS WHICH SHOULD SERVE AS AN EXAMPLE IN THE INNUMERABLE DENUNCIATIONS OF SIMILAR CASES AGAINST MEMBERS OF THE ARMED FORCES"], *CORREAS*, JULY 1, 1991, P. 35.

PRESIDENT FUJIMORI HAS SUPPORTED MILITARY LEGAL JURISDICTION FOR HUMAN RIGHTS CASES (AS IN DECREE 171, DESCRIBED ABOVE) DESPITE THE NEED FOR PUBLIC ACCOUNTABILITY AND DESPITE THE FACT THAT THE MILITARY CANNOT BE CONSIDERED A DISINTERESTED PARTY WHERE ACCUSATIONS OF HUMAN RIGHTS ABUSE ARE CONCERNED. ONE ARMY SERGEANT HAS REPORTEDLY BEEN SANCTIONED ADMINISTRATIVELY AND ALSO FACES CHARGES IN CIVILIAN COURT AFTER LEADING SOLDIERS AND CIVIL PATROLLERS IN A GROUP MURDER IN AYACUCHO: THE BODIES OF EIGHTEEN VICTIMS WERE DISCOVERED IN A PLACE CALLED CHILCAHUAYCCO.¹¹ THE CASE IS NOT AS ENCOURAGING AS IT SEEMS, HOWEVER. THE INDIVIDUAL IN QUESTION, AT FIRST KNOWN ONLY BY HIS COVER NAME "CENTURIÓN," WAS NOT IMMEDIATELY PUNISHED AFTER THE DISCOVERY OF THE CHILCAHUAYCCO BODIES, BUT CONTINUED COMMANDING OPERATIONS, APPARENTLY WITH FULL SUPPORT FROM THE COMMANDER OF THE AYACUCHO POLITICAL-MILITARY COMMAND. IT WAS ONLY WHEN COMPLAINTS MOUNTED ("CENTURIÓN" IS ALSO RESPONSIBLE FOR OPERATIONS THAT RESULTED IN 19 STILL-UNRESOLVED DISAPPEARANCES, IN THE AREAS OF SAN JOSÉ DE TÍLLAS AND SANTIAGO DE PISHA) — AND ONLY AFTER A NEWSMAGAZINE DISCOVERED AND EXPOSED HIS REAL NAME, JOHNNY ZAPATA ACUNA — THAT HE WAS PUNISHED ADMINISTRATIVELY. FURTHERMORE, IT APPEARS THAT THE LEGAL CASE AGAINST HIM IS STALLED. AS IN OTHER CASES WHICH HAVE BEEN INITIATED AGAINST MILITARY OFFICIALS, WHOSE FUTURE IS UNCERTAIN,¹² THIS ONE DOES NOT CONSTITUTE A CHANGE IN POLICY; IT IS RATHER THE EXCEPTION THAT PROVES THE RULE: FOR THE MILITARY AT LEAST, IMPUNITY IS A FACT UNDER FUJIMORI AS IT WAS UNDER GARCÍA.

IF THE GOVERNMENT WISHES TO DEMONSTRATE THAT IMPUNITY IS NOT AN OFFICIAL POLICY, IT CAN DO SO IN SEVERAL WAYS:

(1) THE APPROPRIATE MILITARY OFFICIALS SHOULD OFFER PROOF OF EFFECTIVE SANCTIONS AGAINST MEMBERS OF THE SECURITY FORCES WHO HAVE COMMITTED EXECUTIONS OR OTHER GRAVE ABUSES OF HUMAN RIGHTS. THOSE SANCTIONED SHOULD NOT BE LIMITED TO LOW-LEVEL ENLISTED MEN OR NON-COMMISSIONED OFFICERS WHERE THERE IS EVIDENCE OF MORE SENIOR RESPONSIBILITY, INCLUDING FOREKNOWLEDGE OR INTELLECTUAL RESPONSIBILITY.

(2) ANY CIVILIAN OFFICIAL'S ATTEMPT TO COVER UP POLITICAL EXECUTIONS SHOULD BE CAUSE FOR DISMISSAL AND PUBLIC EXECUTIVE REBUKE.

¹¹ FOR DESCRIPTION OF THE CHILCAHUAYCCO INCIDENT, SEE SECTION ON CIVIL PATROLS.

¹² SEE, FOR EXAMPLE, THE BUSTIOS CASE, IN SECTION E BELOW.

B. Disappearances

THE PHENOMENON OF DISAPPEARANCE IN PERU IS INTIMATELY CONNECTED WITH THE STATE OF EMERGENCY. AND UNLIKE KILLINGS, DISAPPEARANCES ARE A FORM OF ABUSE THAT IS ASSOCIATED ALMOST EXCLUSIVELY WITH THE GOVERNMENT, IN PARTICULAR THE ARMY. THE NUMBER OF DISAPPEARANCES HAS REMAINED EXCEPTIONALLY HIGH OVER SEVERAL YEARS -- FROM 1987 THROUGH 1990, THE UNITED NATIONS (U.N.) RECORDED THE HIGHEST NUMBER OF NEW DISAPPEARANCES ANYWHERE IN THE WORLD IN PERU -- AND IN THE PERIOD UNDER REVIEW HERE THE PRACTICE HAS CONTINUED, ALTHOUGH THERE ARE DIFFERENCES OF OPINION AS TO WHETHER IT HAS DIMINISHED.

THE FIGURES COMPILED BY HUMAN RIGHTS ORGANIZATIONS, WHICH REPORT 236 UNRESOLVED DISAPPEARANCES DURING FUJIMORI'S FIRST YEAR IN OFFICE,¹³ SUGGEST THAT THE PRACTICE CONTINUES TO BE ROUTINE. THE BREAKDOWN SHOWS THAT THE GREATEST NUMBER OF DISAPPEARANCES OCCURRED IN JUNÍN AND SAN MARTÍN, THE AREAS OF MOST INTENSE COUNTERINSURGENCY ACTIVITY. HUMAN RIGHTS GROUPS' FIGURES ARE ACTUALLY LOWER THAN THOSE OF THE OFFICIAL WATCHDOG AGENCY, THE FISCALÍA DE LA NACIÓN: A FISCALÍA DOCUMENT PROVIDED TO AMERICAS WATCH IN AUGUST 1991 STATES THAT THE AGENCY HAS 214 PENDING DISAPPEARANCE CASES FOR ONLY THE FIRST HALF OF 1991.¹⁴

EARLIER IN THE YEAR IT SEEMED THAT THE PRACTICE OF DISAPPEARANCES WAS ABATING SOMEWHAT, AND GOVERNMENT AND MILITARY SPOKESMEN EMPHASIZED THIS AS AN IMPROVEMENT; BUT EVEN MEMBERS OF THE BERNALES COMMISSION, SPEAKING PRIVATELY WITH AMERICAS WATCH IN MAY 1991, DIFFERED ON WHETHER THE DECLINE WAS REAL OR A PRODUCT OF THE INCREASING DIFFICULTY OF REPORTING FROM REMOTE CONFLICTIVE AREAS.¹⁵ AS THE FIGURES NOW STAND, GOVERNMENT CLAIMS TO HAVE REDUCED DISAPPEARANCES DO NOT APPEAR JUSTIFIED.

AMERICAS WATCH IS CONCERNED LESS WITH YEARLY OR MONTHLY VARIATIONS IN FIGURES -- FOR ANY PATTERN OF DISAPPEARANCES IS UNACCEPTABLE -- THAN WITH THE GOVERNMENT'S ATTITUDE TOWARD THE PRACTICE. OUR REPRESENTATIVE WAS TOLD IN MAY 1991 BY THE DEFENSE MINISTRY'S SPOKESMAN ON HUMAN RIGHTS, FOR EXAMPLE, THAT DISAPPEARANCES ARE A FABRICATION OF PERUVIAN HUMAN RIGHTS ORGANIZATIONS. ACCORDING TO THIS OFFICIAL, "FIFTY PERCENT OF THE SUPPOSED DISAPPEARED ARE ACTUALLY AT LIBERTY ALTHOUGH HUMAN RIGHTS GROUPS RETAIN THEM ON THEIR LISTS" AND ONE SHOULD ASK "WHERE THEY ARE ENGAGING IN TOURISM."¹⁶ GIVEN THE CONSERVATIVE METHODOLOGY OF PERUVIAN HUMAN RIGHTS

¹³ COORDINADORA NACIONAL DE DERECHOS HUMANOS, "Carta Circular" No. 15, AUGUST 1991, FRONT PAGE. TOTAL COMPLAINTS 375. THIS REPRESENTS A UNIVERSE OF CASES HANDLED BY VARIOUS MEMBER HUMAN RIGHTS ORGANIZATIONS OF THE COORDINADORA.

PERUVIAN HUMAN RIGHTS GROUPS COUNT AS DISAPPEARANCES ONLY THOSE CASES IN WHICH THE VICTIM HAS NOT SUBSEQUENTLY "REAPPEARED." THAT IS, THE FIGURES CITED HERE ARE AS CONSERVATIVE AS POSSIBLE. WHILE IT IS EXTREMELY DIFFICULT TO INVESTIGATE DISAPPEARANCES IN REMOTE AREAS, PERUVIAN HUMAN RIGHTS ORGANIZATIONS CONDUCT DIRECT INVESTIGATIONS OF THE CASES THEY HANDLE, AND PREFER TO ERR ON THE SIDE OF CONSERVATISM IN THEIR REPORTING.

¹⁴ MINISTERIO PÚBLICO, Oficina de Estadísticas, "VIOLACIÓN DE DERECHOS HUMANOS, FISCALÍA ESPECIAL DE DEFENSORÍA DEL PUEBLO Y DERECHOS HUMANOS, INGRESO - PRIMER SEMESTRE 1991," CHART DS-05. TOTAL COMPLAINTS 251, RESOLVED 37.

¹⁵ THE DIFFICULTY OF BEING PRECISE ABOUT DISAPPEARANCES IS DEMONSTRATED BY THE 1990 FIGURES: PERU'S HUMAN RIGHTS GROUPS REPORT A TOTAL OF 204 FOR THE YEAR; THE FISCALÍA DE LA NACIÓN RECEIVED MORE THAN 350 CASES, ALTHOUGH SOME WERE LATER "RESOLVED" WITH THE VICTIMS AT LIBERTY OR FOUND DEAD. UN AND AMNESTY INTERNATIONAL FIGURES ARE ALSO DIFFERENT.

¹⁶ AMERICAS WATCH INTERVIEW WITH ARMY GENERAL ALBERTO ARCINIEGA, MINISTRY OF DEFENSE, LIMA, MAY 22, 1991. THE OFFICIAL REPEATED THIS ARGUMENT WITH AMERICAS WATCH EXECUTIVE DIRECTOR JUAN E. MÉNDEZ IN JULY.

organizations, this statement is untrue. It also betrays an attitude that undermines this same official's credibility when he claims concern. Although Fujimori himself has exhibited some preoccupation with the level of disappearances, government policy has not adequately confronted the problem. On the one hand, a step forward during the past year was made in reforming the penal code to recognize forced disappearance as a crime. But in the meantime, cases multiply.

- One that became especially well-known is the disappearance of Ernesto Rafael Castillo Páez, a recently-graduated student arrested by police on October 21, 1990, in the Lima slum area Villa El Salvador during an anti-Sendero sweep. The habeas corpus petition presented on his behalf was not only accepted by a lower court but confirmed by a second-level court — only the second time this had ever been accomplished in a disappearance case, and the ensuing legal process would have examined the responsibility of senior police and military officials. With a highly irregular legal maneuver the government's lawyer succeeded in obtaining a Supreme Court review, and although the Supreme Court's ruling virtually acknowledged that a disappearance had taken place, the Court declined to support the petition for habeas corpus. Subsequently, Castillo's lawyer received a letter-bomb which blew off his left forearm.¹⁷
- On March 14, 1991, four residents of Chuschi, in Cangallo Province, Ayacucho, including mayor Manuel Pacotaype Chauvin, the governor Marcelo Cabana Tucno, the council secretary Martín Cayllhua Galindo, and a neighbor, Isaias Huamán Vilca, were violently detained by soldiers at a local fair before numerous witnesses. Local groups believed the detentions were due to the community's having refused to form a civil patrol. Relatives filed a complaint, and the provincial prosecutor of Cangallo went to the local army base, along with prominent local citizens. He was not permitted entry, and when he and his companions went to a nearby town they were followed and intimidated by soldiers.
- On April 19, 1991, five men enrolled as candidates in upcoming municipal elections in Huancapi, the capital of Víctor Fajardo Province, Ayacucho. This meant that essentially they were volunteering as Sendero targets for execution, putting themselves directly in danger to support democracy. Nonetheless, after they had celebrated their activism for several hours that evening, it was the army which punished them. A patrol under the command of an officer with the cover name "Centaurio" arrested the five, along with a couple who were their friends (the woman was eight months pregnant). Relatives' protests and the provincial prosecutor's attempt to investigate have not secured army cooperation: "Centaurio" had been transferred by the time the prosecutor went to the base to investigate.

If the disappeared person does not reappear quickly, human rights groups have reason to presume that he or she is dead. For example, between June and November 1990, the Comité Vicarial por los Derechos Humanos de Pucallpa, a Catholic Church office in the capital of Ucayali Department, presented complaints on 92 killings and 30 disappearances. Then, in the middle of November the Bishop of Pucallpa, Monsignor Martín, sent a complaint himself, in the office's name, to the Fiscalía de la Nación: he stated that about 30 km. from Pucallpa, corpses had been discovered in a swamp; five skeletons could be seen, although some six months earlier as many as 20 bodies had been reported floating on the surface. The Comité Vicarial believed that disappearances it had denounced had ended in these killings.¹⁸

As some of the above cases demonstrate, even when prosecutors attempt to protect disappearance victims they are unable to get military cooperation. In the Chuschi case, the prosecutor's own safety was called into question. A vigorous government program is required to end disappearances. Such a program should contain the following elements, at a minimum:

(1) The work of local prosecutors and of the Fiscalía de la Nación, which receives human rights denunciations, should be publicly and consistently supported, and military non-cooperation with their work should be punished. We are heartened by the recent promulgation of an order that would grant prosecutors entry to military facilities in the emergency zones: if implemented fully this measure could reduce the chance of disappearances. It is too soon to determine the extent of military and government commitment to the measure, however.

(2) A special prosecutor should be appointed by the Fiscalía de la Nación to investigate disappearances as occurred in the mid-1990s for a brief and successful period. The previous special prosecutor, Carlos Escobar, who secured the "reappearance" of many disappeared detainees, was removed from his job due to military pressure when he refused to countenance the cover-up of a 1998 army massacre

¹⁷ See section F below.

¹⁸ Instituto de Defensa Legal (IDL), *Perú 1990: La Oportunidad Perdida*, Lima, 1991, pp. 242-43.

accompanied by disappearances in CAYARA, AYACUCHO. THE APPOINTMENT OF SUCH A PROSECUTOR IS ONLY A FIRST STEP, THEREFORE; THE EXECUTIVE MUST ALSO SHOW FIRM SUPPORT FOR HIS INVESTIGATIONS NO MATTER WHERE THEY LEAD.

(3) A CENTRAL REGISTRY OF DETENTIONS SHOULD BE CREATED TO FACILITATE RELATIVES' SEARCHES FOR THEIR DETAINED LOVED ONES. FOR YEARS, PERUVIAN HUMAN RIGHTS GROUPS HAVE SOUGHT THE CREATION OF A CENTRAL REGISTRY TO PROVIDE IMMEDIATE NOTICE OF DETENTIONS TO RELATIVES, HUMAN RIGHTS MONITORS, LAWYERS AND THE PRESS; SUCH A REGISTRY HAS RECENTLY BEEN ANNOUNCED, APPARENTLY DUE TO U.S. CONGRESSIONAL DOUBTS ABOUT PERU'S ELIGIBILITY FOR MILITARY AID. THAT IS, THERE ARE PLANS TO REQUIRE THE SECURITY FORCES TO KEEP A REGISTER OF DETAINEES AND INFORM PROSECUTORS IMMEDIATELY OF THEIR DETENTION OR RELEASE. THE DETAILS OF THE PLAN ARE NOT YET CLEAR. AMERICAS WATCH WILL BE MONITORING THE DEVELOPMENT OF THE PLANNED REGISTER AND ITS OPERATIONS.

(4) AMERICAS WATCH HAS URGED FOR SEVERAL YEARS THAT THE PERUVIAN GOVERNMENT GIVE THE INTERNATIONAL COMMITTEE OF THE RED CROSS UNRESTRICTED ACCESS TO ALL DETENTION FACILITIES AS A WAY OF PREVENTING DISAPPEARANCES, WHICH CAN BE TRACED COMMONLY TO ARMY BARRACKS AND OTHER FACILITIES THAT THE ICRC AS YET MAY NOT ENTER. WE SUPPORT THE LANGUAGE OF THE U.S.-PERU FRAMEWORK AGREEMENT OF MAY 1991, WHICH SPEAKS OF "UNRESTRICTED ACCESS" FOR THE ICRC, AND URGE ONCE MORE THAT SUCH ACCESS BE GRANTED WITH ALL POSSIBLE SPEED. AS NOTED BELOW IN THE SECTION ON TORTURE, HOWEVER, CURRENT TREATMENT OF THE ICRC IS FAR DIFFERENT AND NOT, IN OUR JUDGMENT, ACCEPTABLE.

C. CIVIL DEFENSE PATROLS & PARAMILITARY GROUPS

(a) CIVIL DEFENSE PATROLS

ISOLATED HAMLETS IN SOME PARTS OF THE PERUVIAN SIERRA HAVE TRADITIONALLY FORMED VILLAGE PATROLS, WHICH SERVE TO PROTECT THEM FROM STRANGERS, THIEVES, CATTLE RUSTLERS AND UNFRIENDLY NEIGHBORS. IN NORTHWESTERN PERU THE TRADITIONAL PATROLS ARE CALLED *RONDAS CAMPESINAS*. DURING THE 1980S, WHEN THE PERUVIAN MILITARY SOUGHT TO UTILIZE THIS MODEL IN IMPOSING UNPAID PATROL DUTY ON VILLAGERS IN AYACUCHO, IT CALLED THE PATROLS *RONDAS* TO CONVEY A FALSE IMPRESSION OF CONTINUITY AND VILLAGE AUTONOMY. A PROFOUND DIFFERENCE BETWEEN THE TWO, HOWEVER, IS THAT WHILE THE TRADITIONAL *RONDAS* GREW OUT OF TRADITIONAL VILLAGE AUTHORITY STRUCTURES, THE MILITARY-IMPOSED PATROLS REPLACE TRADITIONAL LEADERSHIP AND IGNORE TRADITIONAL VALUES.¹⁹ THE RESULT IS THAT THOSE WHO ACQUIRE POWER, IN A VILLAGE WITH AN IMPOSED PATROL, ARE NOT THE MOST RESPECTED RESIDENTS BUT THE MOST VIOLENT, THOSE FRIENDLIEST TO THE MILITARY AND/OR THOSE WITH SOME TRAINING DUE TO COMPULSORY MILITARY SERVICE. VILLAGE LIFE HAS BEEN TRANSFORMED BY THE PATROLS, WHICH FUNCTION NOT ONLY AS A PROTECTIVE FORCE BUT AS A FORCE WATCHING RESIDENTS' MOVEMENTS AND, ALL TOO OFTEN, AS AN AGGRESSIVE FORCE -- AGAINST OTHER PEASANTS AS WELL AS *SENDERO*.

THE PATROLS COMPRISE WOMEN AND VERY YOUNG PEOPLE, BARELY TEENAGERS, AS WELL AS MEN. NO ONE IS PAID, AND THERE IS NO PROVISION FOR REPARATION OR CARE IN THE CASE OF WOUNDING OR A FAMILY'S LOSS OF A PARENT. IN SOME CASES, PARTICULARLY IN AYACUCHO DURING THE PAST TWO YEARS, *SENDERO*'S BRUTALITY HAS PROVOKED SOME VILLAGES TO FORM PATROLS VOLUNTARILY; BUT THE BULK, DURING THE PAST NINE YEARS AND AT PRESENT, ARE CREATED THROUGH PRESSURE FROM THE ARMY AND NAVY.²⁰

VILLAGES WITH PATROLS ARE FAVORED TARGETS OF *SENDERO*; IT IS NOT UNCOMMON FOR LARGE GROUPS OF VILLAGERS TO BE MURDERED BECAUSE THEY PARTICIPATE IN A CIVIL PATROL. WHILE THE PRIMARY RESPONSIBILITY FOR THESE ATROCIOUS CRIMES RESTS WITH *SENDERO*, IT IS THE MILITARY'S RESPONSIBILITY TO OFFER SOME SUPPORT FOR THE SUPPLEMENTARY FORCES IT CREATES, AND THAT SUPPORT IS RARE; THE PEASANTS ARE FIRST PRESSED INTO PATROL SERVICE, THEN LEFT FOR *SENDERO* REPRISALS.

¹⁹ *SENDERO LUMINOSO*'S IMPOSED MODEL OF "GOVERNMENT" IS SIMILARLY CONTEMPTUOUS OF PEASANTS' CULTURE AND POLITICAL SELF-DETERMINATION, AS DESCRIBED IN CHAPTER II, SECTION A.

²⁰ THE NAVY IS ACTIVE IN THE COUNTERINSURGENCY EFFORT IN PART BECAUSE THERE ARE STRATEGIC RIVERS IN PERU WHICH THE ENEMY USES FOR TRANSPORT AND COMMUNICATIONS.

THE NATION'S MOST IMPORTANT PEASANT LEADERS CONSIDER THE POLICY MISGUIDED. JUAN ROJAS, SECRETARY GENERAL OF THE CONFEDERACIÓN CAMPESINA DEL PERÚ (CCP), STATED IN A RECENT INTERVIEW: "THE GENERAL LAW ON PEASANT COMMUNITIES DOES NOT SAY THAT THE ARMY HAS THE OBLIGATION -- OR THE FACULTY -- TO ORGANIZE COMMUNITIES IN SELF-DEFENSE, OR ANYTHING LIKE THAT. WE SAY THEY ARE VIOLATING COMMUNAL AUTONOMY."²¹ THE NATIONAL ORGANIZING SECRETARY OF THE CONFEDERACIÓN NACIONAL AGRARIA (CNA), WALTER SACAYCO, WENT FURTHER: "THE PEASANT FEDERATIONS...MAINTAIN THAT THIS IS NOT THE APPROPRIATE WAY TO PACIFY THE COUNTRY. THE ONLY ROAD IS THROUGH AN AGRARIAN POLICY FAVORING DEVELOPMENT IN THE COUNTRYSIDE...IN NO WAY DOES AN ARMAMENTIST POLICY UNDER THE PRETEXT OF SELF-DEFENSE CONTRIBUTE EITHER TO DEVELOPMENT OR, EVEN LESS, TO PACIFY THE PERUVIAN COUNTRYSIDE AND THOSE TWO THINGS MUST HAPPEN TOGETHER."²² PEASANT REPRESENTATIVES COMPLAIN THAT WHILE PRESIDENT FUJIMORI HAS GOTTEN PUBLICITY FOR HIMSELF BY HANDING OUT RIFLES TO SOME COMMUNITIES, ONCE THE CROWDS GO HOME THOSE COMMUNITIES ARE NO LESS VULNERABLE TO SENDERO PUNISHMENT.²³

ALTHOUGH THERE IS SOME EVIDENCE THAT PATROLS HAVE AIDED THE ARMY AGAINST SENDERO, PARTICULARLY IN THE CENTRAL DEPARTMENT OF JUNÍN WHERE THE CONFLICT INTENSIFIED DURING 1990 AND EARLY 1991, THE CLIMBING RATE OF POLITICAL DEATHS ALSO IS PARTIALLY DUE TO THE ACTIVITY OF THE PATROLS. THE BERNALES COMMISSION FOUND, FOR EXAMPLE, THAT DURING 1990 IN JUNÍN, CIVIL PATROLS WERE RESPONSIBLE FOR ABOUT ONE-SEVENTH OF ALL DEAD, SUBSTANTIALLY MORE THAN THE ARMY.²⁴ THIS SUGGESTS -- AND TESTIMONY TO HUMAN RIGHTS ORGANIZATIONS CONFIRMS -- THAT PATROLS ARE BEING FREQUENTLY USED AS THE ARMY'S ADVANCE GUARD, A PURELY AGGRESSIVE FUNCTION.

PUT ANOTHER WAY, THE PATROLS HAVE FAILED TO CURB POLITICAL VIOLENCE, WHICH WAS SUPPOSED TO BE THEIR PURPOSE. INSTEAD, AS THE COMMENTS OF PEASANT LEADERS HIGHLIGHT, THE PATROLS HAVE CONTRIBUTED TO THE ESCALATION OF VIOLENCE; AND PATROLLERS HAVE THEMSELVES OFTEN BEEN RESPONSIBLE FOR ABUSES.

THE CLASSIC SCENARIO FOR ABUSE BY PATROLLERS IS THE RAID PERFORMED UNDER MILITARY LEADERSHIP. TWO EXAMPLES AMONG MANY ARE THE AUGUST AND SEPTEMBER 1990 MASSACRES IN IQUICHA AND CHILCAHUAYCCO, AYACUCHO. THE FIRST CASE IS DESCRIBED ABOVE,²⁵ THE SECOND MAY BE SUMMARIZED AS FOLLOWS:

- ON SEPTEMBER 21-22, 1990, A COMBINATION OF CIVIL PATROLLERS AND SOLDIERS -- UNDER THE COMMAND OF AN ARMY NON-COMMISSIONED OFFICER NAMED JOHNNY ZAPATA ACUÑA, BETTER KNOWN AS "EL CENTURIÓN" -- FIRST TORTURED AND THEN KILLED A GROUP OF CAPTIVES IN CHILCAHUAYCCO, DISTRICT OF SAN PEDRO DE CACHI, AYACUCHO. A MONTH LATER THE BODIES OF THE SEVENTEEN VICTIMS WERE DISCOVERED IN A MASS GRAVE.

THE MASSACRE PROVOKED A SENATE INVESTIGATION, AND THE INVESTIGATIVE PANEL HAD HARSH WORDS FOR THE CIVIL PATROL STRATEGY -- AMONG THEM, THAT COMMUNITIES NOT BOWING TO PRESSURE TO FORM PATROLS ARE OFTEN VICTIMIZED IN REVENGE, BY THE ARMY AND OTHER PATROLLERS; THAT MILITARIZATION OF COMMUNITIES SEVERELY UNDERMINES TRADITIONAL COMMUNAL AUTHORITY; THAT TO GIVE ARMS TO PATROLLERS MAY FACILITATE CRIMINAL OR POLITICAL VIOLENCE; AND THAT THE PATROLS GENERATE INTER-COMMUNAL CONFLICT, AS BETWEEN VILLAGES WHICH ORGANIZE PATROLS AND THOSE WHICH RESIST DOING SO.²⁶

THE ARMY SERGEANT WHO LED THE MASSACRE, COVER NAME "EL CENTURIÓN," IS THE ONLY MEMBER OF THE ARMY PRESENTLY UNDER PROSECUTION BY A CIVILIAN COURT, AND THAT CASE APPEARS TO BE STALLED.

²¹ "LA OPINIÓN DE LOS DIRIGENTES CAMPESINOS," *IDEÉLE*, MAGAZINE OF IDL (INSTITUTO DE DEFENSA LEGAL), LIMA, AUGUST 1991, P. 15. TRANSLATION BY AMERICAS WATCH.

²² *Ibid.*, PP. 15-16.

²³ A DRAMATIC EXAMPLE OF THIS IS THE SENDERO EXECUTION OF A CIVIL PATROL LEADER ON JULY 13, JUST TWO WEEKS AFTER THE MAN HAD RECEIVED ARMS FROM PRESIDENT FUJIMORI; SEE CHAPTER II.

²⁴ OF A TOTAL OF 719 KNOWN DEATHS IN THE DEPARTMENT IN 1990, "PEASANT ORGANIZATIONS" WERE CONSIDERED RESPONSIBLE FOR 101; BY CONTRAST, THE ARMY KILLED ONLY 79 IN THE DEPARTMENT, ACCORDING TO THE BERNALES COMMISSION'S REPORT.

ALL 101 OF THE DEAD ATTRIBUTED TO CIVIL PATROLS WERE LABELED, BY THE MILITARY, AS SUBVERSIVES; THIS IS HIGHLY QUESTIONABLE, HOWEVER, GIVEN THE OPERATING STYLE OF THE PATROLS IN JUNÍN, AS ELSEWHERE.

²⁵ SEE SECTION A ABOVE.

²⁶ SENATE OF THE REPUBLIC OF PERU, "INFORME FINAL DE LA COMISIÓN INVESTIGADORA DE LOS SUCEOS DE CHUMBIVILCAS Y SAN PEDRO DE CACHI (CUSCO-AYACUCHO)," MAY 1991.

In a recent case:

- On July 4, 1991, a group of soldiers and members of the civil patrol from Lircay, province of Ancash, Huancavelica department, detained fifteen peasants in the community of Santa Bárbara, also in Huancavelica; among the detainees were seven children. On July 11, a relative of one of the detainees reported finding the body along with others half-buried in an abandoned mine, according to Amnesty International. On July 14, when members of the community tried to visit the mine, armed men in civilian clothes prevented them from approaching it. One witness reported that the men identified themselves as soldiers; another witness reported hearing explosions.

The investigative judge was not able to visit the mine until July 19. He reported finding human remains, items of clothing, and used explosives, although the bodies that had been reported there on July 11 were not discovered. That same day, 23 residents of Santa Bárbara were detained by the army when they reached the mine; 21 were later released.

Civil patrols have been associated with violent abuses of the rights of noncombatants since they were first formed in 1992.²⁷ Yet the Fujimori government has embraced a counterinsurgency strategy that relies on these civil patrols, and thus on drawing the civilian population -- including children -- directly into the conflict. Indeed officials speak of increasing the government's promotion of the patrols. The militarization of rural Peruvians invites Sendero retaliation against them, while allowing the army and navy to evade their duty to protect the population. Even recognizing the need to find effective ways of containing Sendero, and even recognizing that villagers lack reliable protection from the military and police -- and that some may regard the patrols therefore as a necessary evil -- the militarization of rural communities carries an enormous price.

Americas Watch reiterates our past recommendations:

(1) that patrols 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.

(2) that patrols not be subject to military authority and not be used for aggressive actions in any circumstances.

(3) that, inasmuch as forced participation violates the right to free association, no community should be forced to organize a patrol, nor should any community be punished for reluctance to militarize.

If the military cannot meet these standards, or considers the autonomy of armed village patrols too dangerous and unstable an element in contested areas, then the patrols should be dismantled.

(b) Paramilitary groups

- On July 10, 1991, during a group wedding of 22 couples in the cooperative El Sol de Huaura -- in the city of Huaura, just north of Lima -- and in front of 200 witnesses, eight men in ski masks burst in and ordered everyone to lie down. Officiating at the ceremony was the mayor of Huaura, Jesús Morales Bermúdez, the man they were looking for, and he became their first victim: the attackers shot him twice in the temple and three times in the stomach. When a neighbor present, César Róger Hurtas, lifted his head, the men shot him dead as well. The mayor, politically associated with the United Left, could as easily have been a target of Sendero as of the military, but witnesses noted that the killings did not bear the hallmarks of Sendero, as there was no political speech made and no attempt to explain or ideologically justify the action.
- On July 19, 1991, in the capital city of Ayacucho department, unknown men burst into the home of a university professor and shot him, his wife, his son and his nephew to death. Neighbors did not hear a sound, according to press reports, which suggests that the killers used silencers. Francisco Soler García, professor at the San Cristóbal de Huamanga University, and his family thus became further victims of the insurgent-counterinsurgent violence in Ayacucho, where teachers and students at the university have been favored targets of death squads, given Sendero's roots in the Huamanga university community.

In addition to the civil patrols, there is another form of paramilitary activity in Peru, the death squad. President Fujimori conducted a purge of the police force soon after taking office, forcing over 200 officers into retirement for reported corruption and connections to the APRA, former President García's party; this may be one reason why a particularly prominent death squad, the Comando Rodrigo

²⁷ See, for example, Americas Watch, *In Desperate Straits: Human Rights in Peru after a Decade of Democracy and Insurgency*, August 1990, pp. 93-90.

Franco, which may have been run from inside the APRA, became less active in late 1990. But paramilitary activity as such has continued during Fujimori's first year. And though concentrated in Lima it finds expression wherever the counterinsurgency effort is strong. In its report on 1990, the BERNALES Commission considers the Comando Rodrigo Franco responsible for five killings, but total executions by "unidentified groups" numbered 294.

There is little doubt that the death squads operate with the tolerance and collusion of the security forces: for example, army sergeant Johnny Zapata Acuña, better known as "Centurión" and the leader of the massacre of 19 people buried in Chilcahuaycco (see civil patrols, above) is also known as the prime force behind a death squad in Huanta, Ayacucho named the "Comando de Liberación Antiterrorista."²⁸ Culprits remain at large and operate with substantial resources of men and arms. They tend to remove people whose continued activity would embarrass the armed forces or police. This accounts for a recent statement by leaders of the National Journalists' Guild and its Ayacucho branch in the wake of the death squad murder of an Ayacucho journalist. If there were not a prompt and thorough investigation, they said, "we will begin to believe that [the government] evidently wants everything to be hushed up by impunity."²⁹

D. TORTURE

Torture is so frequent a practice -- against common-crime suspects as well as those detained on suspicion of terrorism -- and the courts have been so ineffectual in responding to complaints, that few cases reach public notice. The fact that the International Committee of the Red Cross has had access to the facilities of DIRCOTE (the anti-terrorism police) and to prisons around the country has produced a noticeable improvement, but the practice remains common, for example, when troops are out on patrol in remote areas and become a law unto themselves. Moreover, Americas Watch has learned that the ICRC is not given access to detainees immediately after arrest but only after preventive detention, which in terrorism cases can last up to 15 days. Since the greatest danger of mistreatment is during initial detention, much more effective protection could be offered if police would permit access by the ICRC within 24 hours.

We offer here four examples of cases denounced during Fujimori's first year, which suggest the range of circumstances in which torture takes place and the range of methods used.

- Fidel Intusca, driver for a mining concern in Ayacucho, was told on August 6, 1990, to present himself to the army base in Puquio, Ayacucho to answer some questions regarding an August 2 Sendero incursion. In that action, Senderistas had attacked the mine site and robbed explosives. After answering the questions, Intusca was released and was returning to the mine site with his wife, son and other miners when their truck was intercepted by six men who wore ski masks but the shoes and uniforms of soldiers. They took him blindfolded to an unknown place which he gradually recognized to be the army base. There they tortured him for four to five hours: kicks, beatings, submersion in water until he lost consciousness. That night Intusca managed to escape while his guard slept.

Intusca's case is unusual in that he survived, for although many bodies are recovered with marks of torture, seldom do victims emerge from military custody to tell their stories. Intusca's union pressured Congress to conduct an investigation. The army's response to congressional inquiries was that Intusca's denunciation was a Sendero ploy.

- Juan Apolinario González, a trade union leader at a Lima paper factory, was detained on March 10, 1991, in the Paramonga neighborhood. In reporting on his case, Amnesty International noted that his factory had been on strike for approximately two weeks when the detention occurred: this may have been related to the harassment he suffered. Police forced him inside a police vehicle, where they beat him. They then transported him to Security Police headquarters where -- supposedly in order to make him confess to breaking the windshield of the police car -- he was subjected to more beatings, near-drowning, and the application of electricity. He was released without charges on March 12 and subsequently denounced the torture to the Fiscalía de la Nación.

²⁸ IDL, Peru 1990, p. 147.

²⁹ ANDEAN NEWSLETTER (ENGLISH LANGUAGE VERSION OF *INFORMATIVO ANDINO*) No. 57, ANDEAN COMMISSION OF JURISTS, LIMA, AUGUST 12, 1991, p. 6. THE CASE OF LUIS ANTONIO MORALES IS DESCRIBED BELOW IN SECTION E.

- Moisés Tenorio Banda, a teacher in the Naranjillo-Rioja community, was detained by the army after a May 10, 1991, MRTA incursion into Rioja, in San Martín department. In that incursion MRTA had taken nine policemen prisoner. Professor Tenorio, apparently suspected of some knowledge of the MRTA, was first tortured in custody, then thrown from an army helicopter. He survived the fall, severely wounded, and was found by peasants who took him to the Hospital de Nuevo Cajamarca. The case was immediately denounced to the human rights office of the Fiscalía de la Nación.
- Vilcashuamán province, in Ayacucho, is the site of the Accomarca military base, installed in 1995. Since the army came to the area, it has required each hamlet to provide a monthly tithe of meat and vegetables for the soldiers. In the hamlets of Pucapaccana and Pacchahuallhua, in Independencia district, the villagers did not fill their quota during August or early September 1990, because the town official responsible for coordination of the goods was away. Apparently as a result of this failure, on September 25 a patrol arrived and entered Pacapaccana shooting into the air. The officers in charge go by the cover names "Moreno" and "Gitano." Having gathered and intimidated the townspeople, they detained 64-year-old Bernabé Baldeón García and two of his relatives, supposedly to carry sheep to the base. The patrol then passed through Pacchahuallhua, along the way raping three peasant women, and taking their sheep. In the district capital, where they met up with other patrols bringing detainees, the soldiers tortured their captives: three, including the elderly Bernabé Baldeón García and two unidentified men, died as result. Among those who survived the torture were three professors, five villagers and the mayor of one of the towns. When this case was taken up with the Defense Ministry, our representative was shown the results of the army's investigation, which asserted that no abuse had occurred. Bernabé Baldeón García, for example, was said to have died of a heart attack, with no explanation of circumstances or marks of duress.

As the latter case suggests, the army's investigations into human rights complaints are less than thorough. Americas Watch is aware of several other cases taken to the Defense Ministry and passed from there to zone commanders for investigation; some, like the case above, involve eyewitness testimony to detentions or to torture itself. As yet the army has not admitted premeditated abuse in any case.

Until the International Committee of the Red Cross is permitted regularly to visit army and police holding centers in the entire emergency zone -- and is given access to all detention centers in a timely fashion -- there appears to be little hope of curbing the widespread practice of torture. As for conduct in the field, the only effective impediment to cruelty is punishment from above combined with relentless publicity from victims, their defenders and the press. Unfortunately, there is no punishment from above; meanwhile, both human rights monitors and journalists have come under increasing pressure in the past year.

E. Restrictions on Freedom of Information

Peru's is, for the most part, a free press, reflecting a wide range of opinion; even the MRTA's organ, *Cambio*, is openly published and available on newsstands. It is one of the remarkable features of Peru, indeed, that in the midst of social deterioration the press has been able to publish detailed and highly critical information on the counterinsurgency campaign, corruption, and human rights violations. (Given the sad state of most public institutions in Peru, and the skepticism caused by economic decline and political violence, the role of the press is more than usually important.)

That having been said, however, there has been a gradual but steady diminution in the press's ability to cover the conflict since 1990: the commanders of the emergency zones often do not welcome journalists (nor does Sendero), and the press is finding ever larger areas of the country out of bounds. The result is a heavy reliance on army communiqués for information on the conflict. Since those communiqués describe the dead as the army chooses to define them, it is not uncommon for investigators, some time later, to learn that the dozen dead in a certain hamlet and reported as subversives were in fact civilians whom the army believed to be sympathizers. The extrajudicial executions in Chillutira, described earlier in this section, are a graphic, clumsy example of an everyday practice. (Not only the press, but all investigators rely to some extent on army information. The Bernalés Commission's report on 1990, for example, lists 101 killings by civil patrolers in Junín and describes all the dead as subversives, although there is no way to confirm this and reason to question it.)

Aside from the general difficulty of access, which is an increasingly serious problem in terms of assessing real conditions in the field of conflict, journalists are also the objects of direct intimidation and sometimes murder. Journalists reporting on human rights are particularly vulnerable. Three recent cases:

- Luis Morales Ortega, journalist with Radio Tacna in Huamanga, Ayacucho, and known for his reporting on human rights, was assassinated on July 13, 1991, in Huamanga. At the time of his death he was doing a story on paramilitary groups, and one such group, the Comando de Liberación Antiterrorista, appears to have been responsible for his death. He had been receiving death threats for at least two weeks before the assassination and had requested police protection, which was denied. During his funeral Morales' house was attacked. No one has been apprehended for the crime.
- The same squad delivered death threats to two other Ayacucho journalists known for their human rights reporting. On June 10, 1991, the Comando de Liberación Antiterrorista forced Radio Wari to transmit a message threatening Magno Sosa Rojas, who

works at Radio S atelite and for the national newsweekly *S ı*; and Necias T aquiri, director of a news program with the station. The message accused the journalists of disseminating terrorism. That the threats came from the military or someone very close to them is suggested by the fact that Magno Sosa has since been arrested on suspicion of terrorism, tortured, and consequently hospitalized.

- On July 19, 1991, veteran television journalist C esar Hildebrandt revealed a secret army document on his news analysis program, "En Persona"; the document authorized the "elimination leaving no trace" of detainees in the counterinsurgency campaign. Hildebrandt's show was taken off the air immediately afterward, and although the television station insists that the program's removal was unrelated to the exposure of the army's document, doubts linger. Meanwhile, the army command has claimed that the document -- though admittedly authentic -- was a draft and does not represent official policy.

The document, a draft of guidelines for "special intelligence operations," states that:

Normally, one does not act violently; however, if the situation and conditions permit, it may be possible to achieve eliminations leaving no trace.

Countersubversive operations ... are of a highly offensive, aggressive nature, not forgetting that the best subversive is a dead subversive; thus, there will be no taking of prisoners.³⁰

Whether or not it became official policy, the document, reportedly commissioned and drafted by an army general, betrays the thinking of at least some highly-placed and trusted military men.

- There are also unsettling developments in the case of another journalist -- Hugo Bustos, correspondent for *Corefas* and one of the nation's most diligent human rights investigators until his death near an army roadblock in Ayacucho in November 1990. In March 1991, the local prosecutor denounced the killer of Bustos as a soldier with the cover name "Ojos de Gato," but the judge ruled that without a precise identification no trial could go forward and the case, lacking any military cooperation to identify the assassin, was stalled until *Corefas* succeeded in identifying "Ojos de Gato." This soldier -- real name Vidal San Vento -- had evidently acted on the orders of his superior, cover name "Comandante Landa Dupont," real name Hernando Laveria Hern andez, former military commander of the Huanta, Ayacucho military base.

In late May the judge in charge of the case formally charged the two; not long after, his home was searched by soldiers in an intimidatory raid.³¹ In addition, a document was leaked which exposed the military's strategy in the case: dated March 4, 1991, and addressed to the commander-in-chief of the army, the document concluded that, since the two were already identified, the

³⁰ Marked "secret", the document was named "Proyecto Directivo No. 01-CCFFAA-JICS, Para la Ejecuci on de Operaciones Especiales de Inteligencia," dated June 1991 and bearing the seal of the Countersubversive Intelligence Office of the General Staff (*Estado Mayor*).

³¹ See below, section F.

MILITARY COULD LOSE NOTHING BY COOPERATING WITH THE COURT AND CONFIRMING THEIR IDENTITIES AS IT HAD REFUSED TO DO EARLIER; ALSO THAT A MILITARY-COURT CASE ALREADY INITIATED ON BUSTIOS SHOULD BE SPEEDED UP, SO THAT IT COULD REACH A CONCLUSION QUICKLY AND SUPERSEDE ANY ACTION AGAINST THE ACCUSED IN CIVILIAN COURT.³²

³² "Hoja Informativa," No. 001-91/SRM-AJ. Relevant text:

...4. CONCLUSIONS

a. It is advisable formally to furnish the Ministerio Público with the real identities of those for which it has repeatedly asked, especially since these have become known extraofficially.

b. It is necessary to coordinate with the judicial authorities of the Fuero Privativo [military jurisdiction], so that the legal case underway in the Sixth Permanent Military Court of Ayacucho is accelerated with the aim of achieving a quick resolution, which would put an end to and avoid any other legal case.

SIGNED BY AND BEARING THE SEAL OF GEN. JOSÉ VALDIVIA DUEÑAS, DIVISIÓN GENERAL. (VALDIVIA DUEÑAS, WHOSE CONTROVERSIAL PROMOTION IS DESCRIBED IN CHAPTER III, WAS IMPLICATED IN ONE OF THE MOST IMPORTANT MASSACRES OF THE 1980S, IN CAYARA AYACUCHO; HE WAS COMMANDER OF THE POLITICAL-MILITARY COMMAND IN THE AYACUCHO EMERGENCY ZONE AT THE TIME.)

THE GOVERNMENT HAS ARGUED THAT PRESS COVERAGE OF TERRORISM IS AN ENCOURAGEMENT TO THE ARMED GROUPS; THE ISSUE OF PRESS RESPONSIBILITY IN COVERAGE OF POLITICAL VIOLENCE HAS BEEN DEBATED FOR SOME TIME. ON JUNE 12, THE PERUVIAN ASSOCIATION OF RADIO AND TELEVISION ANNOUNCED THAT IT WOULD RESTRICT REPORTING ON TERRORIST ACTIVITIES TO ONE MINUTE PER NEWS PROGRAM.³³ WHILE IT CAN BE ARGUED THAT EXCESSIVE AND SENSATIONALISTIC REPORTING MAY PLAY INTO THE HANDS OF INSURGENT MOVEMENTS, AMERICAS WATCH DOES NOT BELIEVE THAT RESTRICTING THE LENGTH OF TIME OF BROADCASTS ON ANY SUBJECT IS A HELPFUL STEP. THE NATURE OF POLITICAL VIOLENCE BY EITHER SIDE IS VITAL INFORMATION. MORE CONSTRUCTIVE WOULD HAVE BEEN GUIDELINES ON KEEPING SUCH REPORTING STRICTLY FACTUAL AND APPLYING THOSE SAME GUIDELINES TO REPORTING ON ALL OCCURRENCES RELEVANT TO THE COUNTERINSURGENCY CAMPAIGN.

F. ATTACKS ON HUMAN RIGHTS MONITORS

LIKE JOURNALISTS, REPRESENTATIVES OF PERUVIAN HUMAN RIGHTS ORGANIZATIONS EXPERIENCE INCREASING PROBLEMS OF ACCESS TO THE AREAS WHERE INVESTIGATIONS ARE NEEDED. THEY ALSO EXPERIENCE DIRECT HARASSMENT, WHETHER BECAUSE THEIR INQUIRIES ARE UNWELCOME OR BECAUSE THEY SEEK TO PROTECT WITNESSES AND VICTIMS OR BECAUSE THEIR CAREFUL WORK IS EARNING THEM NATIONAL RECOGNITION. THIS TREND, EVIDENT IN THE LATER YEARS OF THE GARCÍA ADMINISTRATION, HAS CONTINUED DURING FUJIMORI'S FIRST YEAR IN OFFICE, SOMETIMES ATTRIBUTABLE TO SENDERO LUMINOSO, SOMETIMES TO STATE AGENTS. THE BEST KNOWN CASE IN THE LATTER CATEGORY IS THE NEAR-FATAL BOMB ATTACK ON HUMAN RIGHTS COMMISSION (COMISEDH) LAWYER AUGUSTO ZÚNIGA PÁZ, ON MARCH 15, 1991.

- AUGUSTO ZÚNIGA PÁZ, THE ONLY FULL-TIME LAWYER ON STAFF AT COMISEDH, WAS REPRESENTING THE FAMILY OF DISAPPEARED STUDENT ERNESTO CASTILLO PÁEZ.³⁴ HAVING JUST BEEN DEFEATED IN THE SUPREME COURT IN THE CASE, ZÚNIGA WAS PLANNING TO PURSUE THE POLICE RESPONSIBLE THROUGH OTHER CHARGES. IN HIS MAIL ON MARCH 15 ARRIVED A LARGE ENVELOPE, WHICH HAD BEEN DELIVERED BY HAND AND BORE THE EMBLEM OF THE PRESIDENCY OF THE REPUBLIC (EVIDENTLY FORGED), ADDRESSED TO COMISEDH'S "LEGAL DEPARTMENT," PRESUMABLY HIMSELF. THE ENVELOPE WAS A SOPHISTICATED BOMB, OF A KIND NOT USED BEFORE IN PERU; WHEN ZÚNIGA OPENED IT, THE EXPLOSION TOOK OFF HIS LEFT FOREARM. HE LEFT PERU FOR MEDICAL AND SECURITY REASONS AND IS NOW IN SWEDEN.

IT SHOULD BE NOTED THAT ZÚNIGA BELIEVED HE HAD IDENTIFIED THE PRINCIPAL KILLER OF THE DISAPPEARED CASTILLO, A POLICE EXPLOSIVES EXPERT, AND BELIEVED TOO THAT CASTILLO HAD BEEN KILLED BY EXPLOSIVES.

THE U.S. STATE DEPARTMENT PROTESTED THIS ATTACK IN A CABLE TO THE PERUVIAN GOVERNMENT, AND IN PERU THERE WAS UNANIMOUS CONDEMNATION.

- DR. MOISÉS OCHOA GIRON IS THE INVESTIGATING JUDGE IN HUANTA WHO IS IN CHARGE OF THE CASE OF HUGO BUSTIOS, A JOURNALIST MURDERED AFTER PASSING THROUGH AN ARMY ROADBLOCK IN AYACUCHO IN 1989, A CASE IN WHICH SEVERAL MILITARY PERSONNEL ARE IMPLICATED.³⁵ ON JUNE 4, 1991, THE JUDGE'S HOUSE WAS ENTERED AND SEARCHED BY SOME 30 MEMBERS OF THE ARMY, LED BY A CAPTAIN WHO IDENTIFIED HIMSELF AS "TAURO." WHEN THE JUDGE PROTESTED, THE COMMANDING OFFICER CITED ORDERS TO SEARCH FOR "SUPPOSED SUBVERSIVES" IN THE HOUSE. THE SEARCH WAS EVIDENTLY AN ATTEMPT TO INTIMIDATE DR. OCHOA AS THE CASE REACHED A DELICATE STAGE.

³³ "COMMUNIQUE ISSUED BY THE PERUVIAN RADIO AND TELEVISION ASSOCIATION IN LIMA ON JUNE 30, 1991," *Lima Frecuencia 2 Satellite Television*, JUNE 30, 1991, AS REPRINTED IN *FOREIGN BROADCAST INFORMATION SERVICE*, FBIS-LAT-91-127, JULY 2, 1991, P. 43.

³⁴ THAT CASE IS DESCRIBED IN CHAPTER 1, SECTION B.

³⁵ THAT CASE IS DESCRIBED IN CHAPTER 1, SECTION E.

THE NEW GOVERNMENT'S ATTITUDE TOWARD HUMAN RIGHTS ORGANIZATIONS HAS BEEN AMBIVALENT. PRESIDENT FUJIMORI HIMSELF HAS INDICATED A CERTAIN OPENNESS TO HUMAN RIGHTS ACTIVISTS.³⁶ ON THE OTHER HAND HIS JUSTICE MINISTER, THE REPRESENTATIVE OF HIS GOVERNMENT WHO WOULD LOGICALLY SERVE AS LIAISON WITH THE HUMAN RIGHTS COMMUNITY, HAS TAKEN A PUBLIC STANCE SO HOSTILE AND SO GRACELESS THAT RELATIONS BETWEEN THE GOVERNMENT AND HUMAN RIGHTS GROUPS HAVE BEEN STRAINED. MINISTER AUGUSTO ANTONIOLLI HAS ACCUSED HUMAN RIGHTS ORGANIZATIONS OF "CREATING OBSTACLES TO POLICE AND ARMED FORCES' INTERVENTION IN ZONES AFFECTED BY SUBVERSION."³⁷ HE HAS SPOKEN OF "ETERNAL DEFENDERS OF HUMAN RIGHTS WHO, INSTEAD OF SUPPORTING THE FORCES OF ORDER, LIMIT THEMSELVES TO DENOUNCING APPARENT EXCESSES AND THUS, ONLY CONTRIBUTE TO A CLIMATE OF DEMORALIZATION" AMONG THOSE FORCES.³⁸ THE CHARACTERIZATION IS FIRST OF ALL UNWARRANTED: HUMAN RIGHTS INVESTIGATIONS IN NO WAY AFFECT THE CONDUCT OF THE COUNTERINSURGENCY CAMPAIGN IN EMERGENCY ZONES -- ALTHOUGH ARGUABLY THEY SHOULD; AND HUMAN RIGHTS ORGANIZATIONS HAVE ALWAYS NOTED ABUSES BY BOTH SIDES, NOT ONLY ONE. FURTHERMORE, SUCH AN ATTITUDE ON THE PART OF THE NATION'S HIGHEST LAW-ENFORCEMENT OFFICIAL MIGHT WELL BE TAKEN AS A LICENSE TO THREATEN OR ATTACK HUMAN RIGHTS MONITORS, WHETHER OR NOT IT WAS INTENDED AS SUCH. AT THE VERY LEAST THAT ATTITUDE SUGGESTS THAT WHATEVER THE MILITARY DOES, LEGAL OR NOT, IS BEYOND CRITICISM. THE MINISTER'S REMARKS ARE FRANKLY UNACCEPTABLE, YET DESPITE DEMANDS FROM THE HUMAN RIGHTS COMMUNITY, HE HAS REFUSED TO RETRACT THEM.

AMERICAS WATCH BELIEVES THAT THE ABILITY OF PERUVIAN HUMAN RIGHTS MONITORS TO CONDUCT INVESTIGATIONS THOROUGHLY AND SAFELY IS FUNDAMENTAL TO ANY PROSPECT OF IMPROVEMENT IN THE COUNTRY'S HUMAN RIGHTS CONDITIONS. THE ABILITY OF THESE GROUPS TO OPERATE, FREE OF REPRISAL, MUST NOT BE CONSIDERED NEGOTIABLE. TWO FURTHER RECOMMENDATIONS:

(1) IT IS IMPORTANT THAT PRESIDENT FUJIMORI COMPENSATE FOR THE CONDUCT OF HIS MINISTER BY, AT A MINIMUM, STATING HIS OWN ABSOLUTE COMMITMENT TO PROTECT THE LIVES AND PERMIT THE WORK OF HUMAN RIGHTS MONITORS.

(2) IT IS ALSO IMPERATIVE THAT THE POSITION OF THE HUMAN RIGHTS ORGANIZATIONS BE FAIRLY REPRESENTED IN ANY DISCUSSION OF U.S.-PERU RELATIONS. WHEN U.S. AMBASSADOR ANTHONY QUAINTON, IN ARGUING FOR THE U.S.-PERU MILITARY AGREEMENT OF JULY 1991, CLAIMED THAT PERUVIAN HUMAN RIGHTS GROUPS SUPPORTED THE AGREEMENT AND ITS ASSERTIONS OF HUMAN RIGHTS IMPROVEMENT, THE CLAIM WAS REJECTED EMPHATICALLY BY THOSE ORGANIZATIONS, WHICH, IN A LETTER TO THE AMBASSADOR, CITED THE CHILCAHUAYCCO, IQUICHA, CHUSCHI, CHILLUTIRA AND OTHER CASES TO UNDERSCORE THAT "THESE PAST MONTHS HAVE BEEN CHARACTERIZED BY A SUBSTANTIAL INCREASE IN DENUNCIATIONS OF HUMAN RIGHTS VIOLATIONS COMMITTED BY THE SECURITY FORCES...WE REITERATE THAT WE ARE NOT OPPOSED TO THE PROVISION OF U.S. FOREIGN AID TO OUR COUNTRY. OUR PURPOSE IS TO CALL ATTENTION TO THE GRAVE CONSEQUENCES FOR THE PROMOTION OF HUMAN RIGHTS THAT THE PROVISION OF UNCONDITIONAL AID COULD HAVE IF GIVEN TO A GOVERNMENT THAT IS ENGAGED IN GRAVE AND SYSTEMATIC VIOLATIONS OF THOSE RIGHTS."³⁹

³⁶ FOR EXAMPLE, WHEN HE CREATED A SPECIAL COMMISSION TO AUTHORIZE PARDONS FOR UNCONVICTED PRISON INMATES, HE NAMED SEVERAL HUMAN RIGHTS ADVOCATES TO THE PANEL. HE ALSO SPOKE DURING HIS CAMPAIGN OF CREATING A NATIONAL HUMAN RIGHTS COMMISSION, ALTHOUGH THAT PROMISE -- RECENTLY REITERATED -- HAS NOT YET BEEN REALIZED.

³⁷ QUOTED IN *SI* MAGAZINE, DECEMBER 2, 1990.

³⁸ ANDEAN COMMISSION OF JURISTS, *INFORMATIVO ANDINO*, DECEMBER 10, 1990.

³⁹ LETTER DATED AUGUST 1, 1991, FROM THE COORDINADORA NACIONAL DE DERECHOS HUMANOS TO AMBASSADOR ANTHONY QUAINTON, REPRINTED IN *CONGRESSIONAL RECORD*, AUGUST 2, 1991, P. S.11992.

II. 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 FORMAL, CONSISTENT CONTROL OVER POPULATION OR TERRITORY, AS IS THE CASE IN PERU.⁴⁰ WE DO NOT DISCOUNT THE POSSIBILITY THAT, IF CURRENT TRENDS CONTINUE, SENDERO LUMINOSO MAY FUNCTION AS A QUASI-GOVERNMENT IN SOME PART OF PERU IN THE RELATIVELY NEAR FUTURE, BUT TO OUR KNOWLEDGE THAT SITUATION HAS NOT YET BEEN ACHIEVED.

COMMON ARTICLE 3 PROHIBITS MISTREATMENT OF PERSONS TAKING NO ACTIVE PART IN HOSTILITIES, INCLUDING COMBATANTS WHO HAVE LAID DOWN THEIR ARMS OR HAVE BEEN PLACED *HORS DE COMBAT* FOR ANY REASON. SPECIFICALLY PROHIBITED ARE: VIOLENCE TO LIFE AND PERSON, IN PARTICULAR MURDER, MUTILATION, TORTURE; HUMILIATING OR DEGRADING TREATMENT; THE PASSING OF SENTENCES AND CARRYING OUT OF EXECUTIONS WITHOUT PREVIOUS JUDGMENT PRONOUNCED BY A REGULARLY CONSTITUTED COURT AFFORDING GUARANTEES OF DUE PROCESS.

THE APPLICATION OF COMMON ARTICLE 3 DOES NOT AFFECT THE LEGAL STATUS OF 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 MOVIMIENTO REVOLUCIONARIO TUPAC AMARU (MRTA) HAVE VIOLATED COMMON ARTICLE 3. SENDERO HAS DONE SO WITH REMARKABLE CONSISTENCY AND CRUELTY, KILLING MANY MORE CIVILIANS IN COLD BLOOD THAN ENEMY SOLDIERS IN COMBAT, CONDUCTING RITUAL "PEOPLE'S TRIALS," AND SEEKING TO HUMILIATE ITS VICTIMS BEFORE KILLING THEM. IN ADDITION SENDERO ENGAGES IN FORCED RECRUITMENT OF YOUNG BOYS, A PRACTICE NOT CONTEMPLATED IN COMMON ARTICLE 3, BUT WORTHY OF NOTE AS A VIOLATION OF FREEDOM OF MOVEMENT AND FREEDOM OF ASSOCIATION; FURTHER, SENDERO PROTECTS ITS MORE EXPERIENCED FIGHTERS BY FORMING AROUND THEM A "SHIELD" OF LESS VALUABLE FORCED RECRUITS. AS THE BERNALES COMMISSION REPORT ON 1990 NOTED, A PORTION OF THE PERUVIAN DEAD OFFICIALLY COUNTED AS SUBVERSIVES ARE LIKELY TO BE "PEOPLE FORCED TO JOIN AND TO PARTICIPATE IN MILITARY INCURSIONS..."⁴¹ THE MRTA, THOUGH LESS FANATICAL AND GRATUITOUSLY CRUEL THAN SENDERO, HAS BEEN GUILTY OF ATTACKS ON CIVILIANS AND KIDNAPPINGS. ALL THESE PRACTICES, AMERICAS WATCH CONDEMNS IN THE STRONGEST POSSIBLE TERMS.

A. SENDERO LUMINOSO

⁴⁰ PROTOCOL II OF 1977, WHICH IS A MORE DETAILED INSTRUMENT COVERING INTERNAL CONFLICTS OR CIVIL WAR, CONTAINS RIGOROUS REQUIREMENTS AS TO CONTROL OF POPULATION AND TERRITORY BY AN INSURGENT FORCE. ESSENTIALLY, PROTOCOL II REQUIRES THAT THE INSURGENTS REPLACE STATE AUTHORITY IN THE AREAS THEY CONTROL AND FUNCTION AS AN ALTERNATIVE STATE.

⁴¹ BERNALES COMMISSION, *10 AÑOS DE VIOLENCIA*, P. 24.

THOUGH HIGHLY PRAGMATIC IN TACTICAL MATTERS, SENDERO LUMINOSO IS ABSOLUTIST IN DEFINING ITS MISSION. FAVORITE WORDS IN ITS WRITTEN PROPAGANDA ARE "DESTROY," "ERADICATE," "ERASE," "DISMANTLE." SINCE MAY 19, 1990 -- THE DAY OF THE ELECTIONS THAT WOULD RETURN PERU TO CIVILIAN RULE AFTER 12 YEARS OF MILITARY GOVERNMENT -- SENDERO HAS BEEN PUBLICLY COMMITTED TO OVERTHROW THE PERUVIAN STATE BY "PROLONGED POPULAR WAR." SENDERO'S METHOD IS TO POLARIZE. WHEREVER THE STATE HAS ATTEMPTED TO EXERCISE A CIVIC-ACTION STRATEGY, WITH LESS REPRESSION AND MORE SENSITIVITY TO THE POOR, SENDERO HAS DONE ITS BEST TO ELIMINATE THE COMMUNICATION, REDUCE THE SPACE FOR DIALOGUE AND FOMENT DISORDER -- FORCING THE STATE TO HARDEN ITS LINE AGAIN. THE INSURGENTS' STRATEGY HAS BEEN SUCCESSFUL PARTLY DUE TO CENTURIES OF GOVERNMENTAL NEGLECT OF THE RURAL POOR AND PARTLY BECAUSE SENDERO TREATS RUTHLESSLY ANYONE WHO DOES NOT CONFORM TO ITS DESIGN. ONE ASPECT OF THE STRATEGY TO ELIMINATE BRIDGES BETWEEN STATE AND CITIZENS HAS BEEN THE DISRUPTION OF ELECTIONS, EVER SINCE 1990: IN THE MOST RECENT MUNICIPAL ELECTIONS OF AUGUST 19, FOR EXAMPLE, SUCH WAS SENDERO VIOLENCE AGAINST POLITICAL CANDIDATES AND SO GREAT WAS THE FEAR OF REPRISALS AGAINST VOTERS THAT, AS OF A WEEK BEFORE THE VOTE, 123 DISTRICTS HAD NOT REGISTERED CANDIDATES AT ALL, MORE THAN ONE-FOURTH OF THE TOTAL.⁴² ACCORDING TO THE JURADO NACIONAL DE ELECCIONES, IN THE DECEMBER 1989 MUNICIPAL ELECTIONS THE INVALID VOTES AND NONVOTERS, COMBINED, CONSTITUTED 95 PERCENT OF THE POTENTIAL VOTE IN AYACUCHO, 90 PERCENT IN HUANCAYELICA, AND 75 PERCENT IN HUÁNUCO -- THESE BEING THE THREE DEPARTMENTS WHERE SENDERO HAS HISTORICALLY BEEN STRONGEST; EVEN IN CUSCO, WHICH ONLY DURING THE PAST YEAR WAS PLACED UNDER STATE OF EMERGENCY, THE FIGURE WAS ABOVE 63 PERCENT. IT WOULD BE SERIOUSLY MISTAKEN TO INFER THAT THOSE NOT VOTING OR MIS-MARKING THEIR BALLOTS WERE ALL SENDERO SYMPATHIZERS. BUT IN A COUNTRY WHERE THE VOTE IS OBLIGATORY AND NON-VOTERS ARE HEAVILY FINED, THE PERCENTAGES AT THE LEAST POINT TO DISAFFECTION WHICH COULD BE EXPLOITED BY SENDERO.

COMBINED WITH THE EFFORT TO POLARIZE CONDITIONS IS THE SENDERO METHOD OF MAINTAINING CONTROL. ONCE SENDERO HAS DRIVEN CIVILIAN AUTHORITIES OUT OF AN AREA⁴³ -- OR, IN REMOTE AREAS WHERE THE GOVERNMENT HAS NEVER BEEN A STRONG PRESENCE -- THE INSURGENTS CREATE ALTERNATIVE STRUCTURES, COMMITTEES THAT HANDLE EDUCATION, SECURITY, TAXATION; THE MILITARY MAY BE ABLE TO REOCCUPY THE AREA AND ATTACK THESE SO-CALLED "BASES DE APUNO," BUT STATE CONTROL IS NOT CONTINUOUS. IN THE CITIES, SENDERO ENGAGES IN TERRORISM TO ESTABLISH ITS PRESENCE, AND WORKS THROUGH FACADE ORGANIZATIONS WHICH ATTEMPT TO DOMINATE COMMUNITY, WOMEN'S, STUDENT AND UNION ACTIVISM. ANY POPULAR ORGANIZATION WITH A GENUINE FOLLOWING, SENDERO CONSIDERS COMPETITION AND SETS OUT TO DESTROY, OFTEN BY MURDERING ITS LEADERS; THIS IS EQUALLY TRUE OF TRADITIONAL AND ELECTED AUTHORITIES IN RURAL AREAS. IN KEEPING WITH THEIR LONG-TERM STRATEGY, THE INSURGENTS ARE NOW FOCUSING MUCH OF THEIR ENERGY ON LIMA, THE ULTIMATE PRIZE, AND ON THE CENTRAL JUNGLE AND OTHER COCA-GROWING AREAS LIKE THE HUALLAGA RIVER VALLEY, WHICH ARE EITHER STRATEGICALLY IMPORTANT OR PROVIDE INCOME.⁴⁴ THE ORGANIZATION REINFORCES ITS INFLUENCE THROUGH VIOLENCE: THOSE RECRUITED TO PARTICIPATE IN SENDERO ORGANIZATIONS OR BASE COMMITTEES MAY BE KILLED IF THEY FAIL TO CARRY OUT THEIR "DUTIES."

A FEW EXAMPLES OF SENDERO'S METHOD SUGGEST ITS LACK OF RESTRAINT. ON FEBRUARY 23, 1991, A SENDERO COLUMN INVADDED THE HAMLET OF CEANO, AYACUCHO, AND KILLED TWENTY-THREE PEASANTS BEFORE ROBBING AND BURNING THEIR HUTS. A WEEK LATER, ON MARCH 1, ANOTHER COLUMN ENTERED PAGO MANTARO, LA MAR PROVINCE, AYACUCHO AND HERE, AMONG ITS THIRTEEN VICTIMS WERE OLD PEOPLE AND CHILDREN. SENDERO'S CAMPAIGN TO GAIN INFLUENCE IN AND AROUND LIMA HAS, IN THE PAST YEAR, COST THE LIVES OF -- AMONG MANY OTHERS -- FORMER APRA SENATOR ORESTES RODRIGUEZ AND HIS SON OSCAR; A CAMBIO 90 (GOVERNING PARTY) PARLIAMENTARIAN, ALEJANDRO VICORIA MENDOZA; AND FARM OWNERS WITH PLANTATIONS JUST NORTH OR SOUTH OF THE CAPITAL, WHO ARE FORCED TO PAY PROTECTION MONEY OR RISK ASSASSINATION. ONE SUCH VICTIM:

- JAVIER PUIGGRÓS PLANAS, AN AGRONOMIST AND NATIONAL SECRETARY FOR PEASANT AFFAIRS OF THE CONSERVATIVE PARTIDO POPULAR CRISTIANO (PPC, A MEMBER OF THE FREDENO ELECTORAL COALITION), WAS ALSO OWNER OF A PLANTATION IN VILCAHUARA, PROVINCE OF HUÁNUCO, NORTH OF LIMA -- AN AREA WHERE SENDERO HAS BEEN TRYING TO ESTABLISH ITSELF DURING THE PAST YEAR. ON NOVEMBER 23, 1990, AROUND 7:00 AM, PUIGGRÓS ARRIVED AT THE FARM TO PAY WORKERS' SALARIES, AND A COLUMN OF MORE THAN TWENTY SENDERO FIGHTERS ENTERED THE FARM SOON THEREAFTER. AFTER CAPTURING PUIGGRÓS, THE SENDERISTAS BROUGHT HIM BEFORE THE WORKERS AND BERATED HIM FOR MISTREATMENT OF THEM. THE WORKERS THEMSELVES PROTESTED THAT PUIGGRÓS WAS A DECENT MAN AND ASKED THE GUERRILLAS NOT TO KILL HIM.

⁴² REUTERS, AUGUST 11, 1991. THE TOTAL NUMBER OF DISTRICTS NATIONWIDE IS 435, ACCORDING TO THIS REPORT.

⁴³ THE LEVEL OF VIOLENCE IN CONFLICT ZONES IS SUCH THAT MAYORS, GOVERNORS, PROSECUTORS AND JUDGES, EVEN CHURCH REPRESENTATIVES TEND TO BE FORCED TO LEAVE. VICTIMS THUS HAVE NO RECOURSE TO THE AID OF THE STATE.

⁴⁴ SENDERO DEMANDS PROTECTION MONEY FROM DRUG TRAFFICKERS, SUCH THAT PLANeloads OF COCA PASTE CAN TAKE OFF SAFELY FROM THE UPPER HUALLAGA. IN THE CENTRAL JUNGLE, IN PARTICULAR AROUND THE ENE RIVER, SENDERO MADE NOTABLE INROADS DURING 1990; FOR A PERIOD IT EVEN CONTROLLED A LARGE AREA IN THE ENE RIVER BASIN, ALLOWING ITS FIGHTERS TO RECOVERATE IN SAFETY THERE OR TO USE THE WATERWAY FOR COMMUNICATION AND TRANSPORT.

WHILE UNDER INTERROGATION, PUIGGRÓS WAS TIED HAND AND FOOT AND MISTREATED PHYSICALLY, BUT WHEN WORKERS TRIED TO HELP HIM THEY WERE THREATENED WITH HARM. ACCORDING TO A WITNESS, THE EXECUTION CONSISTED OF FOUR SHOTS TO THE VICTIM'S CHEST. IN THE MEANTIME, PART OF THE SENDERO COLUMN HAD SABOTAGED FARM EQUIPMENT. THE PLANTATION'S ADMINISTRATOR, MANUEL SALAZAR, WAS THEN KIDNAPPED BY THE SENDERISTAS; HIS DEAD BODY WAS LATER LEFT FOR POLICE TO FIND.

- SIMILARLY, ON SEPTEMBER 21, 1990, SOME 200 SENDERO COMBATANTS ENTERED FIVE FARMS ON THE OUTSKIRTS OF PISCO AND ONE FARM OWNER, LUIS DE BERNARDI CROVETTO, WAS SUBMITTED TO A "POPULAR TRIAL," AFTER WHICH HE WAS EXECUTED.

THE BERNALES COMMISSION'S FIGURES CONSISTENTLY ATTRIBUTE TO SENDERO AT LEAST HALF OF THE YEARLY POLITICAL DEATHS IN PERU. VICTIMS COME FROM ALL SOCIAL SECTORS AND ARE OF ALL AGES. ONE WAS A DISTINGUISHED REGIONAL HUMAN RIGHTS ADVOCATE:

- PORFIRIO SUNI QUISPE, LEADER OF THE FEDERACIÓN DEPARTAMENTAL DE CAMPESINOS DE PUNO, AS WELL AS REGIONAL PARLIAMENTARIAN AND PRESIDENT OF THE REGIONAL CONGRESS'S HUMAN RIGHTS COMMISSION, WAS DRAGGED FROM HIS HOME ON MAY 13, 1991, IN THE EARLY MORNING BY TWO MEN IN CIVILIAN CLOTHES. HIS ATTACKERS, MEMBERS OF SENDERO LUMINOSO, SHOT SUNI THREE TIMES, THEN ONCE MORE A COUP DE GRÂCE.

SENDERO HAS SINCE THREATENED THE SAFETY OF OTHER HUMAN RIGHTS MONITORS. AN EDITORIAL IN THE JUNE 19 1991 ISSUE OF THE ORGANIZATION'S CLANDESTINE NEWSPAPER *EL DIARIO*, DESCRIBED THE WORK OF HUMAN RIGHTS ORGANIZATIONS AS AN "ESCAPE VALVE" FOR THE FRUSTRATIONS OF THE PEOPLE; "HUMAN RIGHTS ARE BASED IN A BOURGEOIS CONCEPTION OF THE WORLD THAT IS CENTERED ON THE INDIVIDUAL AND CONCEIVES OF HUMANITY AS A FAMILY, IN ORDER TO DENY CLASS STRUGGLE."⁴⁵

TO PROVIDE SOME IDEA OF THE SCOPE OF SENDERO'S INHUMANITY, IT MAY BE USEFUL TO REVIEW, AT RANDOM, A SINGLE RECENT MONTH'S REPORTING BY A HUMAN RIGHTS ORGANIZATION. IN LATE JUNE AND EARLY JULY 1991, ACCORDING TO THE INSTITUTO DE DEFENSA LEGAL IN LIMA,⁴⁶ SENDERO WAS RESPONSIBLE FOR THE FOLLOWING MURDERS, AMONG OTHERS:

- JUNE 23: A BATTLE BETWEEN SENDERO AND ARMY AND POLICE FORCES TOOK PLACE IN SAN MIGUEL, CAPITAL OF LA MAR PROVINCE IN AYACUCHO, ENDING WITH THE OFFICIAL FORCES' WITHDRAWAL. SOME 200 SENDERISTAS OCCUPIED THE TOWN AND EXECUTED THE LOCAL AUTHORITIES, THEN DYNAMITED VARIOUS PUBLIC BUILDINGS AND HOMES. A TOTAL OF 14 PERSONS WERE KILLED AND SOME 20 WOUNDED, THOUGH IT IS UNCLEAR WHETHER ALL THE DEAD WERE NON-COMBATANTS OR WHETHER SOME DIED IN COMBAT.
- JUNE 24: A SENDERO COLUMN ENTERED HUATASANI, HUANCANÉ, IN PUNO DEPARTMENT, FIRST BURNING A HANDICRAFTS WORKSHOP SUPPORTED BY THE LOCAL CHURCH, THEN MURDERING THREE RECENTLY-ARRIVED POLICEMEN AND A FORMER LOCAL OFFICIAL.
- JULY 2: AGAIN IN HUANCANÉ PROVINCE OF PUNO -- THIS TIME IN THE DISTRICT OF MOHO -- SOME 30 SENDERISTAS TOOK OVER A HAMLET FOR FOUR HOURS AND LEFT SIX DEAD, AMONG THEM AN ENGINEER AND A VETERINARIAN WITH AN AID PROJECT, AS WELL AS THE PRESIDENT OF A FEDERATION OF AGRICULTURAL COOPERATIVES AND TWO PEASANTS FROM THE COMMUNITY OF CALUYO WHOM THEY HAD KIDNAPPED SHORTLY BEFORE.
- JULY 9: THE MAYOR OF HUACRAFUQUIO DISTRICT, PROVINCE OF HUANCAYO, JUNÍN DEPARTMENT WAS ASSASSINATED BY SENDERO MEMBERS WHO CAUGHT HIM OUTSIDE HIS HOUSE. THE 32-YEAR-OLD MAYOR, TITO QUISPE YUPANQUI, HAD RECEIVED SEVERAL THREATS OF DEATH FOR REFUSING TO RESIGN.

⁴⁵ EFE CABLE; REPRINTED IN *LA EPOCA* (SANTIAGO, CHILE), AUGUST 7, 1991.

⁴⁶ THE SOURCE FOR THESE EXAMPLES IS THE IDL'S *DEBELE* MAGAZINE, AUGUST 1991, PP. 31-34.

- JULY 12: ECONOMICS PROFESSOR IVÁN PÉREZ RUIBAL, who was also a Cusco city official and a leader of the regional branch of the leftist PCP Unidad party, was shot to death by Sendero while preparing for classes in the university. Sendero issued a warning to "revisionists and collaborators of the government" that they could expect similar reprisals.
- JULY 13: THE LEADER OF THE CIVIL DEFENSE PATROLLERS OF ALTO AND BAJO TULUMAYO, PROVINCE OF CONCEPCIÓN, JUNÍN DEPARTMENT WAS EXECUTED BY SENDERO. JUST TWO WEEKS BEFORE, THE VICTIM, LEONCIO ENRIQUE DE LA CRUZ, HAD RECEIVED ARMS PERSONALLY FROM PRESIDENT FUJIMORI FOR THE CIVIL DEFENSE CAMPAIGN.
- JULY 16: SENDERO KIDNAPPED THE MAYOR OF THE PROVINCE OF SAN ANTONIO DE PUTINA, PUNO DEPARTMENT, ALONG WITH SEVERAL OTHER OFFICIALS. THE MAYOR'S BODY APPEARED ON JULY 25 IN ANOTHER PROVINCE; THE OTHER CAPTIVES WERE SET FREE.
- JULY 17: FOUR WORKERS WITH WORLD VISION, THE EVANGELIST DEVELOPMENT AGENCY, DISAPPEARED BETWEEN LIMA AND ANDAHUYLAS, IN APURÍMAC DEPARTMENT. ON JULY 23 THEIR TRUCK APPEARED, DAMAGED BY DYNAMITE, AND THE DEAD ON BOARD INCLUDED THE ANDAHUYLAS PROVINCIAL GENERAL SECRETARY OF CAMBIO 90, THE GOVERNING PARTY, AS WELL AS THE WORLD VISION WORKERS.
- JULY 19: ADALBERTO CAMPOS OTINIANO, CHIEF OF SECURITY FOR THE UNIVERSITY OF SAN MARCOS, IN LIMA, WAS ATTACKED AND ASSASSINATED BY SENDERISTAS WHILE RETURNING HOME IN HIS CAR. THE KILLING APPEARED TO BE RETALIATION FOR CAMPOS' HAVING COOPERATED WITH THE ARMY WHEN IT HAD SEARCHED THE UNIVERSITY FOR SUBVERSIVES.
- JULY 26: SIX PEASANTS WERE SHOT TO DEATH BY PRESUMED SENDERISTAS IN TWO HAMLETS NEAR THE AIRPORT OF HUANCABAMBA, IN ANDAHUYLAS.
- JULY 26: IN AN ATTEMPT TO ENFORCE A STOPPAGE OF ECONOMIC ACTIVITY IN CERRO DE PASCO, DEPARTMENT OF PASCO, SENDERO KILLED ALL THE MEMBERS OF A FAMILY AND SET FIRE TO TWO INTERPROVINCIAL BUSES. THIS ACTION WAS ONLY PART OF A CAMPAIGN TO INTIMIDATE THE POPULATION IN JUNÍN, PASCO, HUANCANELICA, AYACUCHO AND PUNO DEPARTMENTS AND PERMIT A SHOW OF SENDERO STRENGTH IN THOSE AREAS DURING THE FESTIVITIES SURROUNDING NATIONAL INDEPENDENCE DAY.

AS THIS REPORT IS WRITTEN, REPORTS ARE EMERGING ON EVENTS OF AUGUST 1991 -- AMONG THEM, THE INFORMATION THAT ON AUGUST 2, SENDERO ASSASSINATED 4 ENGINEERS AND 13 MEMBERS OF CIVIL DEFENSE PATROLS IN HUANCANELICA DEPARTMENT; AND THAT ON AUGUST 15, IN AN EXTRAORDINARILY BLOODY EPISODE, FIFTY MINERS IN HUANCANELICA WERE KILLED, PRESUMABLY BY SENDERO.⁴⁷

SENDERO HAS, OF LATE, BEEN DIRECTING ITS ATTENTION TO FOREIGN WORKERS WITH DEVELOPMENT AGENCIES, AND WITH CHURCH REPRESENTATIVES. TWO POLISH PRIESTS OF THE FRANCISCAN ORDER WERE EXECUTED ON AUGUST 10 ON THE OUTSKIRTS OF PARIACOTO, HUARAZ PROVINCE, ANCASH DEPARTMENT; THE TWO HAD BEEN WORKING WITH BASE COMMUNITIES FOR A YEAR AND A HALF AND WERE MUCH ADMIRED. EARLIER, ON MAY 21, AUSTRALIAN NUN SISTER IRENE MCCORMACK WAS ASSASSINATED IN HUASA-HUASI, IN Tarma PROVINCE OF JUNÍN DEPARTMENT, ALONG WITH FOUR TOWN OFFICIALS. A SOVIET TECHNICIAN WAS EXECUTED BY SENDERO IN LIMA ON JUNE 5, AND JAPANESE ARE PARTICULAR TARGETS, NO DOUBT BECAUSE OF PRESIDENT FUJIMORI'S EXTRACTION. THREE JAPANESE ENGINEERS WITH A DEVELOPMENT PROJECT WERE ASSASSINATED ON JULY 12, AND A PERUVIAN OF JAPANESE DESCENT, BUSINESSMAN MANUEL INAMINE SHIMABUKURO, WAS MURDERED BY SENDERO ON JULY 24.

SENDERO'S GROWTH OVER THE PAST DECADE HAS BEEN SLOW BUT STEADY, AND THROUGH ITS FRONT ORGANIZATIONS AND MILITARY ACTIONS THE INSURGENTS ARE NOW PRESENT IN VIRTUALLY THE ENTIRE NATIONAL TERRITORY. THE MORE RELENTLESS THE STATE'S REPRESSION, THE MORE EFFECTIVE FOR SENDERO'S PURPOSES. IT HAS BECOME EVIDENT THAT THE ONLY AREAS WHERE SENDERO HAS BEEN WITHSTOOD, OR PRESENTED WITH MOST DIFFICULTY, ARE THOSE WITH STRONG LOCAL ORGANIZATIONS AND A SOCIALLY-ACTIVE CHURCH, WHICH RESIST BOTH THE REBELS' DIVISIVE AND VIOLENT TACTICS AND THE HARASSMENT OF THE MILITARY.

B. MOVIMIENTO REVOLUCIONARIO TUPAC AMARU (MRTA)

⁴⁷ "AGOSTO, RÉCORD FATAL," *SI* MAGAZINE NO. 235, WEEK OF 19-24 AUGUST, 1991, P. 32.

THE MRTA, A MUCH SMALLER GROUP THAN SENDERO, IS ALSO MORE TRADITIONALLY LEFTIST. IT HAS IN COMMON WITH SENDERO THAT IN RECENT YEARS ITS SABOTAGE ATTACKS HAVE INCREASINGLY FOCUSED ON LIMA, BUT ITS OBJECTIVES ARE LESS CLEAR THAN SENDERO'S. THE GROUPS ARE IN COMPETITION AND OCCASIONALLY CLASH, WITH THE MRTA COMMONLY COMING OFF THE LOSER. THUS, FOR EXAMPLE, WHILE SENDERO IS CLEARLY THE DOMINANT OF THE TWO GROUPS IN THE UPPER HUALLAGA VALLEY, THE MRTA HAS PRECEDENCE IN THE CENTRAL HUALLAGA REGION, WHERE, LIKE SENDERO, IT MAINTAINS RELATIONS WITH DRUG TRAFFICKERS AND "TAKES" THEIR OPERATIONS.⁴⁹

TO COMPENSATE FOR ITS RELATIVELY SMALL SIZE, AND PERHAPS TO SUBSTITUTE FOR CLARITY OF PROGRAM, THE MRTA TENDS TO STAGE FLAMBOYANT ACTIONS, LIKE WELL-PUBLICIZED ESCAPES OF ITS TOP FIGHTERS FROM PRISON. IF BY SUCH ACTIONS THE GROUP SEEKS TO CREATE A ROMANTIC PUBLIC IMAGE, THE OTHER SIDE OF THAT IMAGE IS HIGH-PROFILE ASSASSINATIONS, KIDNAPPINGS AND INDISCRIMINATE BOMBINGS THAT ENDANGER CIVILIAN LIFE. FOR EXAMPLE:

- ON NOVEMBER 16, 1990, THE MRTA ASSASSINATED A LIMA JUDGE, CÉSAR RUIZ TRIGOSO, WHO WAS ASSOCIATED WITH THE REMOVAL OF SQUATTERS FROM PRIVATE LAND. IN PARTICULAR, JUDGE RUIZ HAD ORDERED THE REMOVAL OF FAMILIES WHO HAD OCCUPIED THE LA NARANJAL FARM, IN LOS OLIVOS DISTRICT, LIMA, IN APRIL, AN EXTREMELY VIOLENT EVICTION. A FEW DAYS BEFORE HIS KILLING THE JUDGE HAD ORDERED THE EVICTION OF WORKERS WHO HAD OCCUPIED A FACTORY IN SUPPORT OF SALARY DEMANDS; A MINOR DIED AND TEN WORKERS WERE WOUNDED IN THAT POLICE OPERATION. NONETHELESS, THE AFFECTED UNION REJECTED THE MRTA ASSASSINATION OF JUDGE RUIZ.

IN EARLY 1991 THE MRTA PLACED BOMBS IN PLACES WITH HEAVY CIVILIAN TRAFFIC, LIKE THE ENVIRONS OF GOVERNMENT BUILDINGS AND POLICE BARRACKS; THESE SELDOM EXPLODED, FORTUNATELY. IT ALSO TARGETED CERTAIN FOREIGN ENTITIES. DURING JANUARY AND FEBRUARY, PROTESTING THE WAR IN THE PERSIAN GULF, THE MRTA DYNAMITED THE PIZZA HUT AND KENTUCKY FRIED CHICKEN CONCESSIONS IN LIMA, SEVERAL MORMON CHURCHES, THE ITALIAN EMBASSY AND THE U.S.-PERUVIAN INSTITUTE, AMONG OTHER TARGETS, AND TWICE SHOT ROCKET-PROPELLED GRENADES AT THE U.S. EMBASSY ITSELF; ON ONE OCCASION THE BUILDING WAS SPRAYED WITH BULLETS AT MIDDAY, FROM A CROWDED DOWNTOWN THOROUGHFARE. BY SHEER CHANCE THERE WERE NO CASUALTIES.

⁴⁹ PARADOXICALLY, THE "CENTRAL" HUALLAGA -- STRETCHING NORTH FROM JUANJUÍ, SAN MARTÍN -- LIES NORTH OF THE "UPPER" HUALLAGA.

III. THE INSTITUTIONAL CRISIS

THIS SOCIETY IS COLLAPSING, WITHOUT A DOUBT. THERE IS NO RESPECT FOR THE STATE, THE PARLIAMENT, THE LAWS, THE JUDICIAL SYSTEM.... NOTHING WORKS HERE.

— HERNANDO DE SOTO, ADVISOR TO PRESIDENT FUJIMORI
FEBRUARY 1991, TO A REPORTER⁴⁹

THE PERUVIAN STATE HAS FEW OPTIONS IN THE STRUGGLE AGAINST SENDERO. THE ECONOMIC TOLL OF THE CONFLICT, SINCE 1980, HAS BEEN IMMENSE: MORE THAN \$19 BILLION, OR ROUGHLY EIGHTY PERCENT OF THE NATION'S FOREIGN DEBT. PERU HAS ALSO EXPERIENCED A SHARP ECONOMIC DECLINE SINCE THE MID-1980S FOR OTHER REASONS, AND IN 1989, THE LAST YEAR OF ALAN GARCIA'S GOVERNMENT, INFLATION SURPASSED 2,700 PERCENT.

THE RESULT IS THAT THE PUBLIC COFFERS ARE CLOSE TO EMPTY. FOR EXAMPLE, EVEN WERE THE PERUVIAN GOVERNMENT TO FAVOR A STILL-HEAVIER MILITARY AND POLICE PRESENCE IN THE EMERGENCY ZONES, THE STATE WOULD NOT HAVE THE MEANS TO EQUIP OR TRAIN A LARGER FORCE OR TO ESTABLISH NEW MILITARY OUTPOSTS. AND ALTHOUGH SOME JUDGES AND PROSECUTORS HAVE DISTINGUISHED THEMSELVES IN THE DEFENSE OF HUMAN RIGHTS, THE ENTITY OVERSEEING HUMAN RIGHTS CONDITIONS, THE FISCALÍA DE LA NACIÓN, LACKS SUCH BASIC SUPPLIES AS ADEQUATE PAPER AND TYPEWRITERS BECAUSE OF THE ECONOMIC CRISIS. THE ONLY APPROACH TO THE PERUVIAN SITUATION WHICH WOULD BE ADEQUATE — THAT IS, A LONG-RANGE DEVELOPMENT STRATEGY TO WIN PEASANTS FROM SENDERO AND ENSURE THEIR COOPERATION WITH A MORE HUMANE COUNTERINSURGENCY PROGRAM — WOULD ALSO COST MONEY THE GOVERNMENT DOES NOT CURRENTLY HAVE.

THESE CONDITIONS ARE EXTREME BUT NOT INEVITABLE. RELATED TO THE ECONOMIC DESPERATION FELT THROUGHOUT THE SOCIETY IS AN EQUALLY THOROUGH CORRUPTION, WHICH PRECEDED THE BOOM IN THE DRUG TRADE ALTHOUGH IT HAS GROWN EXPONENTIALLY IN RECENT YEARS. FROM LOWLY LOCAL PROSECUTORS TO THE HIGHEST GOVERNMENT OFFICIALS, THERE IS CORRUPTION AMONG PUBLIC FUNCTIONARIES. PRISON INMATES PAY JUDGES TO GET SPEEDIER TRIALS; ANY CITIZEN PAYS A FRIEND IN CUSTOMS TO RECEIVE HIS LEGITIMATE, OR ILLEGITIMATE, PACKAGE; DRUG TRAFFICKERS PAY OFF BOTH SENDERO AND THE POLICE AND PROSECUTORS IN THE UPPER HUALLAGA — THESE ARE WELL-KNOWN ELEMENTS OF THE PERUVIAN REALITY. WERE THE STATE TO HAVE MORE MONEY, THEREFORE, MUCH OF IT WOULD BE STOLEN. AS TO THE STATE'S DECISION, OVER AND OVER SINCE 1980, TO SPEND WHAT IT HAS ON MILITARIZATION AND LEAVE LITTLE OR NOTHING FOR DEVELOPMENT, IT IS — LIKE THE DECISIONS OF VARIOUS PRESIDENTS, INCLUDING FUJIMORI, TO APOLOGIZE FOR ARMY ABUSES OF HUMAN RIGHTS — A MATTER OF POLITICAL WILL. MILITARIZATION HELPS A STRONG POLITICAL GROUP, THE MILITARY; DEVELOPMENT TAKES PATIENCE AND HELPS FIRST THE POOR.

BELOW WE DISCUSS SOME ASPECTS OF PERU THAT CONTRIBUTE TO THE STATE'S APPALLING RECORD ON HUMAN RIGHTS. WE BELIEVE THAT, BEYOND CASES OF EGREGIOUS ABUSE SUCH AS THOSE DESCRIBED IN CHAPTER I, IT IS IMPORTANT TO EXPLAIN THAT PERU'S IS A COMPLEX SITUATION, PERHAPS AN INTRACTABLE ONE, IN WHICH U.S. AID AS CURRENTLY CONCEIVED IS NOT LIKELY TO BRING IMPROVEMENT BUT THE REVERSE.

⁴⁹ NATHANIEL NASH, "FUJIMORI IN THE TIME OF CHOLERA," *NEW YORK TIMES*, FEBRUARY 24, 1991.

A. Impunity

THE PERUVIAN COURT SYSTEM, LIKE ALL THE COUNTRY'S PUBLIC INSTITUTIONS, HAS BEEN UNDER-FINANCED FOR GENERATIONS. IN ADDITION, PROSECUTORS AND JUDGES HAVE BEEN DRIVEN FROM AREAS OF CONFLICT BY SENDERO THREATS OR -- IF ENGAGED IN HUMAN RIGHTS INVESTIGATIONS -- BY MILITARY PRESSURE. IT IS DIFFICULT, THEREFORE, FOR THE COURT SYSTEM TO HANDLE ITS CASELOAD OR, ESPECIALLY IN EMERGENCY ZONES, TO MOUNT QUICK AND THOROUGH INVESTIGATIONS OF HUMAN RIGHTS ABUSES. NONETHELESS, THERE ARE PROSECUTORS AND JUDGES WHO HAVE SOUGHT TO PURSUE HUMAN RIGHTS CASES: THEY FIND THEMSELVES BLOCKED AND EVEN ON OCCASION INTIMIDATED BY THE UNCOOPERATIVE MILITARY (RECENT EXAMPLES INCLUDE THE CHUSCHI DISAPPEARANCE CASE, AND THE BUSTIOS MURDER INVESTIGATION),⁵⁰ AND UNSUPPORTED BY THE SUPREME COURT, WHICH HAS CONSISTENTLY AWARDED JURISDICTION TO MILITARY COURTS WHEN UNIFORMED PERSONNEL ARE IMPLICATED IN ABUSE.

THE PROBLEM OF JURISDICTION GOES TO THE HEART OF THE FAILURE TO PROSECUTE HUMAN RIGHTS ABUSES. THE MILITARY MAY PERMIT THAT SOME POLICE BE SANCTIONED FOR GROSS VIOLATIONS OF HUMAN RIGHTS, BUT -- IN ELEVEN YEARS -- THERE IS NO KNOWN CASE IN WHICH A MEMBER OF THE MILITARY HAS BEEN SO PUNISHED. THUS, ONCE AN INVESTIGATION IS UNDERTAKEN BY A CIVILIAN COURT, THE MILITARY COURTS INITIATE A PARALLEL PROCEEDING AND DEMAND JURISDICTION ON THE GROUNDS THAT THE CRIME WAS COMMITTED AS AN ACT OF SERVICE, AND, ONCE WINNING JURISDICTION, THE CASE GOES INTO SECRET PROCEEDINGS. THE OUTCOME CAN BE INFERRED BY THE FACT THAT THOSE IMPLICATED REMAIN IN ACTIVE SERVICE. EXAMPLES OF PARTIAL ACTION ARE FEW -- THE CHILCAHUAYCCO CASE, THE BUSTIOS CASE, BOTH DESCRIBED ABOVE IN CHAPTER I -- AND THEIR RESULTS REMAIN UNCERTAIN. WHAT IS MOST STRIKING IS HOW DIFFICULT IT IS TO GATHER EVIDENCE FOR A CASE, HOW TERRIFIED WITNESSES ARE OF EXECUTION, AND HOW CONSISTENTLY THE MILITARY REFUSE TO COOPERATE WITH CIVILIAN PROCEEDINGS -- AND GET AWAY WITH IT.

INDEED, AS OFTEN AS NOT, MILITARY OFFICERS IMPLICATED IN HUMAN RIGHTS ABUSES ARE PROMOTED LATER. AN ESPECIALLY BOLD EXAMPLE, WHICH DIRECTLY IMPLICATES PRESIDENT FUJIMORI, IS THAT OF THE DECEMBER 1990 PROMOTIONS OF TWO ARMY GENERALS IMPLICATED IN LANDMARK CASES:

IN OCTOBER 1990, THE CHAMBER OF DEPUTIES TOOK UP A PROPOSAL TO CHARGE FORMER PRESIDENT GARCÍA, BEFORE THE SUPREME COURT, WITH RESPONSIBILITY FOR ORDERING THE BLOODY SUPPRESSION OF TWO PRISON RIOTS IN JUNE 1986. WHEN IT CAME TO A VOTE, PRESIDENT FUJIMORI COMMITTED HIS PARTY'S SUPPORT TO GARCÍA, MAKING IT POSSIBLE TO DEFEAT THE MEASURE BY THE SLIM MARGIN OF EIGHTY VOTES TO SEVENTY-FIVE. SOON THEREAFTER, FUJIMORI PROPOSED THE PROMOTION OF **ARMY GENERAL JORGE RABANAL**, WHO COMMANDED THE EXTRAORDINARILY REPRESSIVE OPERATION THAT LED TO MORE THAN 120 INMATE DEATHS IN LURIGANCHO PENITENTIARY, FROM BRIGADE GENERAL TO DIVISION GENERAL. THE SENATE SUCCESSFULLY OPPOSED THE PROMOTION ON DECEMBER 5, BUT THE FOLLOWING DAY A NEW VOTE WAS TAKEN AND THE DECISION WAS REVERSED.

ALONG WITH RABANAL -- PROMOTED AT FUJIMORI'S INSISTENCE -- WAS **ARMY GENERAL JOSÉ VALDIVIA DUEÑAS**, THE HEAD OF THE AYACUCHO POLITICAL-MILITARY COMMAND AT THE TIME OF THE CAYARA MASSACRE OF MAY 1989. IN THAT INCIDENT, BETWEEN TWENTY-EIGHT AND THIRTY-ONE PEASANTS WERE KILLED AND DOZENS MORE DISAPPEARED AT THE ARMY'S HANDS. THE MASSACRE WAS FOLLOWED BY A COVER-UP IN WHICH VALDIVIA PARTICIPATED, AND BY THE MURDERS OF NINE OUT OF TEN KEY WITNESSES, PRESUMABLY BY MILITARY AGENTS OR MILITARY-SPONSORED DEATH SQUADS.

THIS SORT OF GESTURE ON THE PRESIDENT'S PART DOES MORE TO UNDERMINE RESPECT FOR HUMAN RIGHTS THAN SPEECHES DO TO FOSTER IT. AS ONE NEWSPAPER COLUMNIST WROTE IN STUPOR FOLLOWING THE SECOND SENATE VOTE, "IT IS FORMALLY PERFECT, MORALLY UNACCEPTABLE AND POLITICALLY DISQUIETING."⁵¹

YET FUJIMORI HAS GONE FARTHER: HE HAS SPONSORED THE AUTOMATIC GRANTING OF MILITARY JURISDICTION IN HUMAN RIGHTS CASES, THAT IS HE HAS PUBLICLY AND FORMALLY ACCEPTED THE MILITARY'S SPECIOUS ARGUMENT THAT CRIMES ARE ACTS OF SERVICE. HIS DECREE 171 OF DECEMBER 1990, DESCRIBED ABOVE IN CHAPTER I, WOULD HAVE REQUIRED THAT THE MILITARY COURTS RECEIVE JURISDICTION OVER SUCH CRIMES -- IN EFFECT, IT WOULD HAVE MADE IMPUNITY LEGAL. IT IS NOTEWORTHY THAT THE MANEUVER WAS MADE BY DECREE, NOT BY LEGISLATION THAT WOULD HAVE INVOLVED CONGRESSIONAL

⁵⁰ SEE CHAPTER I, SECTIONS B AND F, RESPECTIVELY.

⁵¹ PATRICIO RICKETTS REY DE CASTRO, EDITORIAL FOR *EXPRESSO*, A LIMA DAILY; QUOTED IN IDL, *INFORME MENSUAL*, NO. 21, P. 11.

DEBATE AND SOME MEASURE OF ACCOUNTABILITY TO CONSTITUENTS. NONETHELESS, CONGRESS DID NOT ACCEPT THIS FAVOR TO THE MILITARY, AND REPEALED DECREE 171 OVER THE PRESIDENT'S STRONG OBJECTIONS.

B. DRUGS AND CORRUPTION

IN PRIVATE CONVERSATION WITH AN AMERICAS WATCH REPRESENTATIVE IN MAY 1991, A U.S. EMBASSY OFFICIAL IN LIMA DESCRIBED A TRIP HE HAD RECENTLY MADE TO THE UPPER HUALLAGA VALLEY AREA. AS HE NOTED, WHEN SMALL PLANES POTENTIALLY CARRYING DRUGS ARE STOPPED AND SEARCHED, THE LOCAL PROSECUTOR MUST BE PRESENT. ACCORDING TO THIS OFFICIAL, LOCAL PROSECUTORS ARE SOMETIMES CORRUPTED AND EITHER ALLOW DRUGS TO PASS OR TURN A BLIND EYE TO POLICE AND MILITARY AGENTS' HOLDING ONTO DRUGS THEY HAVE CONFISCATED. WHEN ASKED HOW U.S. ANTI-NARCOTICS AID COULD BE DELIVERED CONFIDENTLY UNDER SUCH CIRCUMSTANCES -- TO A SYSTEM IN WHICH THE LOCAL LEGAL REPRESENTATIVES, BOTH CIVILIAN AND UNIFORMED, ARE KNOWN TO PARTICIPATE IN THE "TAKE" FROM DRUGS -- HE SAID THAT ONE WOULD HAVE TO STRIVE FOR TRANSPARENCY AS FAR AS POSSIBLE IN THE DISTRIBUTION OF AID. THIS, HOWEVER, WOULD NOT BE EASY.

THE SITUATION IN THE UPPER HUALLAGA VALLEY IS A SUCCESSFUL CRIMINAL SET-UP: THE DRUG TRAFFICKERS PAY SENDERO FOR PROTECTION OF THEIR FLIGHTS, AND ALSO PAY THE POLICE AS INSURANCE. THE "TAXES" SENDERO COLLECTS PERMIT IT TO BUY MORE ARMS; THE "TAXES" THE POLICE COLLECT DIVIDE THEIR LOYALTY. THE FACT THAT ANTI-NARCOTICS POLICE IN THE UPPER HUALLAGA RECEIVE U.S. AID AND TRAINING HAS NOT STOPPED THEIR POOR BEHAVIOR: SEE, FOR EXAMPLE, THE BELLAVISTA INCIDENT OF JUNE 1991, WHICH INVOLVED EXTORTION FROM RESIDENTS, DRUNKEN MURDER AND ROBBERY OF THE DEAD.⁵²

NOR IS THE MILITARY IN THE UPPER HUALLAGA ANY LESS VULNERABLE TO THE LURE OF DRUG MONEY. IN MARCH 1990, FOR EXAMPLE, POLICE INVESTIGATING DRUG FLIGHTS FROM A LANDING STRIP NEAR THE RAMAL DE ASPUSANA MILITARY BASE REPORTEDLY WERE FOUGHT OFF BY SOLDIERS SO THAT A SMALL PLANE COULD BE LOADED AND TAKE OFF UNEXAMINED. THE SAME MONTH, NEAR THE SAME ARMY BASE, POLICE FOUND A CLANDESTINE LANDING STRIP WHERE SOLDIERS WERE OVERSEEING THE LOADING OF A DRUG SHIPMENT. TWO CAPTAINS AND TWO LIEUTENANTS WERE DENOUNCED, RETIRED FROM THE SERVICE AND SUBMITTED TO TRIAL; THE COMMANDER OF THE POLITICAL-MILITARY COMMAND IN THE ZONE, GENERAL LUIS CHACÓN, WAS ALSO REMOVED DUE TO THIS INCIDENT. BUT THOUGH THE ARMY ACTED RAPIDLY TO DISCIPLINE THE CULPRITS IN THAT CASE, LATER INCIDENTS -- INCLUDING ONE IN WHICH TWENTY TO TWENTY-FIVE SOLDIERS ALLEGEDLY PREVENTED U.S. DRUG ENFORCEMENT ADMINISTRATION (DEA) AND POLICE AGENTS FROM ENTERING A STORAGE FACILITY FOR SEMI-PROCESSED COCAINE -- LED THE DEA TO SUSPEND OPERATIONS IN PERU, AS OF NOVEMBER 1990, CITING "INTERFERENCE." A NOVEMBER 25 ARTICLE IN THE *WASHINGTON POST*, WHICH WAS WIDELY PUBLICIZED IN PERU, CONTAINED CHARGES THAT HIGH ARMY OFFICIALS WERE PASSING TRAFFICKERS INFORMATION ON PLANNED DEA/POLICE OPERATIONS. THE MILITARY'S RESPONSE WAS TO ACCUSE THE DEA AND POLICE OF FABRICATING THE CHARGES TO UNDERMINE ARMY SENIORITY IN THE UPPER HUALLAGA AND EXCUSE THEIR OWN INEFFICIENCY; BUT PERU'S ATTORNEY GENERAL VOUCHERED FOR THE REPORTS OF ARMY CORRUPTION.

C. ABANDONMENT OF VICTIMS

THERE ARE TWO ASPECTS TO THE CRISIS IN PERU, ONE HISTORICAL AND ONE DERIVING FROM THE INSURGENCY. THE HISTORICAL CRISIS IS ONE OF POVERTY, OF A RURAL MAJORITY UNSERVED BY THE STATE, OF A STEADILY GROWING POPULATION OF URBAN SLUM-DWELLERS WITHOUT PROSPECTS. THE CRISIS DERIVING FROM THE INSURGENCY -- VIOLENCE FROM BOTH SIDES, DESTRUCTION OF VILLAGE CULTURE, MILITARIZATION -- IS RELATED TO THE HISTORICAL FAILURES OF THE STATE TO SERVE MOST PERUVIANS IN EVEN MINIMAL WAYS ALTHOUGH THE COUNTRY'S RICH NATURAL RESOURCES COULD EASILY HAVE FINANCED DEVELOPMENT. VICTIMS OF BOTH LONG-TERM AND RECENT CRISES ARE MULTIPLYING, AND TWO CLASSES OF VICTIMS ARE THOSE RURAL PERUVIANS DISPLACED BY POLITICAL VIOLENCE AND THE INMATES OF THE PRISONS.

(a) THE DISPLACED

⁵² THE INCIDENT IS DESCRIBED IN CHAPTER I, SECTION A.

THE NATURE OF REPRESSION IN PERU, AS IN INTERNAL ARMED CONFLICTS ELSEWHERE, IS TO PUNISH FIRST THE POOREST AND THEIR LEADERS AND DEFENDERS. BOTH SENDERO AND OFFICIAL FORCES HAVE AN INTEREST IN REMOVING WHAT FOR THE OTHER WOULD BE VALUABLE ASSETS: THE RESULT IS THAT, IN THE ZONES OF CONFLICT, IT IS THE MOST EXPERIENCED PEASANT ORGANIZERS, THE TRADITIONAL VILLAGE LEADERSHIP, THE MOST ACTIVE UNIONISTS, THE CANDIDATES FOR MUNICIPAL OFFICE, THE MAYORS, WHO HAVE MOST CONSISTENTLY BEEN THE TARGETS. FOR SENDERO, PRE-EXISTING ORGANIZATIONS, NO MATTER HOW BROADLY SUPPORTED, REPRESENT THE "OLD" ORDER. THE ARMED FORCES, FOR THEIR PART, THINK OF POPULAR ORGANIZATIONS AS THE "SEA" IN WHICH SUBVERSIVES CAN SWIM. IN ASSESSING THE DAMAGE THAT MORE THAN A DECADE OF CONFLICT HAS DONE THE NATION, ONE MUST CONSIDER THE LOSS THAT SUCH PEOPLE REPRESENT TO THEIR COMMUNITIES WHEN THEY ARE KILLED OR FORCED TO FLEE. IN AYACUCHO, FOR EXAMPLE, WHERE POLITICAL DISPLACEMENT BECAME NOTICEABLE IN 1983, LOCAL LEADERS SUCH AS MAYORS AND COMMUNAL AUTHORITIES WERE AMONG THE FIRST TO BE FORCED OUT.⁵³

IN 1990, THE HUMAN RIGHTS ORGANIZATION *Comisión Episcopal de Acción Social (CEAS)* ESTIMATED AN INTERNALLY DISPLACED POPULATION OF SOME 75,000 NATIONWIDE, BASED ON CASES ASSISTED BY THE CHURCH, AND CALCULATED THAT THE POPULATION OF THIRTY-TWO AYACUCHO COMMUNITIES HAD FALLEN BY HALF BETWEEN 1981 AND 1985 DUE TO REPRESSION AND MIGRATION.⁵⁴ MANY OF THE DISPLACED MAKE THEIR WAY TO LIMA, WHERE THEY ARE NOT VISIBLE IN PERUVIAN MEDIA OR PUBLIC DEBATE: THEY DISAPPEAR INTO URBAN POVERTY, LUMPED TOGETHER WITH MILLIONS OF OTHERS. ONLY NOW, AFTER NEARLY A DECADE, ARE GOVERNMENT STATISTICIANS BEGINNING TO ASSESS THEIR NUMBERS. AND ONLY IN THE PAST MONTH HAS THE GOVERNMENT PROMISED TO SET UP A COMMISSION TO INVESTIGATE THEIR PLIGHT. MEANWHILE, FOR THOSE WHO LACK DOCUMENTS, THE EXERCISE OF CERTAIN RIGHTS IS NOT POSSIBLE; THEY ARE LESS THAN CITIZENS.

HALF OF THE POLITICALLY DISPLACED ARE CHILDREN, AND MOST OF THESE CHILDREN SPEAK QUECHUA, NOT SPANISH. SINCE BOTH SENDERO AND THE MILITARY COMMONLY DEPRIVE THE RURAL POOR OF THEIR IDENTITY DOCUMENTS, PARENTS UNABLE TO PROVE THEIR CHILDREN'S IDENTITIES AND AGES ARE PREVENTED FROM ENROLLING THEM IN SCHOOL. THE CHILDREN THEREFORE CAN LEARN NEITHER THE NECESSARY LANGUAGE NOR OTHER BASIC SKILLS. THE SAME LACK OF DOCUMENTS COMPLICATES PARENTS' SEARCH FOR JOBS.⁵⁵

THESE PEOPLE MUST FEND FOR THEMSELVES. HAVING LOST ALMOST EVERYTHING, OFTEN HAVING SUFFERED TRAUMA FROM WITNESSING BLOODSHED OR SUFFERING THE LOSS OF A CLOSE RELATIVE, THE DISPLACED CAN HOPE FOR NO PROVISION OF ASSISTANCE BY THE STATE. TO DATE THE MOST ORGANIZED RESPONSE HAS COME FROM THE CATHOLIC CHURCH, BUT WITH THE NUMBERS OF DISPLACED GROWING, A NATIONAL POLICY FOR ASSISTANCE AND RELOCATION IS BADLY NEEDED.

(B) PENAL CONDITIONS

PERU'S PRISONS ARE OVERCROWDED, VIOLENT, ABUSIVELY POLICED AND CORRUPTLY ADMINISTERED -- IN SHORT, AMONG THE WORST PRISONS ANYWHERE. IT IS COMMON FOR TRIAL DELAYS TO LAST THREE OR FOUR YEARS, WHILE THE VAST MAJORITY OF INMATES, FROM THE POOREST SECTOR OF SOCIETY, CAN

⁵³ MIGRATION FROM COUNTRY TO CITY HAS BEEN COMMON FOR DECADES IN PERU, FOR ECONOMIC REASONS, AND IT CONTINUES: POLITICAL DISPLACEMENT DIFFERS IN THAT IT IS DUE PRIMARILY TO FEAR OF POLITICAL VIOLENCE FROM ONE SIDE OR THE OTHER.

⁵⁴ CEAS, LEGAL DEPARTMENT, "PROBLEMÁTICA DE LOS MIGRANTES POR MOTIVOS DE VIOLENCIA POLÍTICA," LIMA, 1990; CITED IN OSCAR SCHIAPPA-PIETRA, *APUNTES SOBRE EL DESPLAZAMIENTO VIOLENTO DE POBLACIONES EN EL PERÚ, 1980-1990*, INSTITUTO INTERAMERICANO DE DERECHOS HUMANOS, SAN JOSÉ, 1991, P. 16.

⁵⁵ SENDERO MAKES A STANDARD PRACTICE OF BURNING LOCAL REGISTERS OF BIRTH AND DEATHS, AS PART OF ITS CAMPAIGN AGAINST THE STATE. AND IF A PEASANT IS ARRESTED EVEN BRIEFLY BY POLICE OR MILITARY PERSONNEL, HIS DOCUMENTS -- CONFISCATED AT TIME OF ARREST -- ARE COMMONLY NOT RETURNED.

afford neither legal representation nor bribes to speed up the process. In Lima's newest maximum-security prison, Miguel Castro Castro ("Canto Grande"), where most accused members of Sendero Luminoso and the MRTA are confined, there are more than 2,000 inmates in a space designed -- only a few years ago -- for 1,200. Lima-Callao's largest prison, San Pedro ("Lurigancho"), was built to hold 2,400 prisoners and currently holds more than 5,000. In the latter years of the García administration, the State did not even possess such precise figures, as no census had been conducted.

When Alberto Fujimori was a candidate for President, he visited Lurigancho, and what he saw shocked him deeply. As a result of the President's concern, a census was taken in 1990: it showed that in Lurigancho nearly four times as many prisoners were awaiting trial and/or sentencing as had received full legal process. In Canto Grande, the comparison was even more dramatic: of a population of 2,003, the census showed 1,900 as not convicted of any crime. Meanwhile, these abandoned citizens lived in such squalor and debilitation that according to a recent director of prisons -- who resigned in despair -- more than 400 Canto Grande inmates were suffering from tuberculosis.⁵⁶

Despite President Fujimori's concern, the situation today is little changed. Security-related prisoners -- of whom the vast majority, about 400, are in Canto Grande -- live uncontrolled by prison regulations in their own area of the prison, where they receive regular visits from relatives and the ICRC and are allowed to cook some of their own food. Relations between guards and inmates are poor, however, and occasionally flair up. On August 15, 1991, five policemen and 20 prisoners in Canto Grande were reportedly wounded during a riot which began when guards attempted to search inmates for weapons and drugs; police used firearms in the wing housing security-related prisoners, according to a news story, which quoted prisoners and their relatives as accusing police guards of ill-treatment and petty theft.⁵⁷ At the same time, these prisoners, and in particular the Sendero prisoners, are organized and vocal about their rights, which has secured them advantages not enjoyed by common inmates. Mistreatment of security-related prisoners is subject to ICRC oversight. In terms of physical provisions, officials appear to have done their best with meager resources.

The common inmates suffer a regimen of unremitting abuse, however. The problems of poor administration, corruption, underfinancing and lack of control of the interior of the prison all redound most painfully on the inmates who cannot protect themselves with political organization or with money. Since 1986, in the wake of the prison riots so violently suppressed, the civilian prison personnel have been replaced inside the prisons with police who systematically rob and intimidate the inmate population. Meanwhile the police-guards permit violent inmate "mafias" to prey on other inmates.

The most dramatic example of the horror of the prisons may be the absence of food. The police-guards rob food between delivery and its arrival in the kitchen. Corruption in the administration of the prisons has also been charged. Government policies have not helped either: after Fujimori's August 1990 economic "shock" measures went into effect, there were cutoffs of food to some prisons, and the following month nine inmates of Lurigancho died of malnutrition.⁵⁸

Fujimori did try to confront the problem of overcrowding. He appointed a commission of experts to propose pardons, case by case, for inmates who had not been convicted. This ran against the Constitution, which prescribed pardons only for the convicted, but it was an attempt to deal with the prison inmates' reality (some three-fourths of all inmates have not been tried). The courts were hostile, arguing that the Constitution should not be bent to alleviate the problems of the prison authorities, and the Senate agreed. But the commission formed by the President began work in October 1990 and, despite a complete lack of cooperation from the courts, was able to recommend pardon in over 90 cases before the year's end.

⁵⁶ IDL, *Peru 1990*, p. 105, referring to Wilder Vidal Ramos, director of the National Penitentiary Institute, who resigned in January 1990.

⁵⁷ "Peru: Five Guards and 20 Prisoners Injured in Jail Riot," Inter Press Service, August 15, 1991, Lima.

⁵⁸ Andean Commission of Jurists, *Informativo Andino*, October 9, 1990, p. 6.

THE COURTS' HOSTILITY WAS REFLECTED, HOWEVER, IN THE ATTITUDE OF JUSTICE MINISTER ANTONIOLLI, WHO, ACCORDING TO FORMER COMMISSION MEMBERS, QUESTIONED THE GROUP'S FINDINGS AND ATTEMPTED TO UNDERMINE ITS DECISIONS; COMMISSIONERS FINALLY FELT COMPELLED TO COMPLAIN TO FUJIMORI DIRECTLY.

CONGRESS, SPURRED BY FUJIMORI'S CONCERN, PASSED A LAW IN JANUARY 1991 WHICH GRANTED FREEDOM ON BAIL TO PERSONS DETAINED WITHOUT SENTENCING FOR INORDINATE LENGTHS OF TIME, AND IN APRIL 1991 REFORMED THE PENAL CODE. THESE SMALL STEPS FORWARD ARE COMMENDABLE BUT LEAVE UNTOUCHED THE PROBLEMS OF GROSSLY INADEQUATE FOOD ALLOTMENTS, INMATE SECURITY, CORRUPTION AND THE LACK OF A COHERENT POLICY FOR PRISON MANAGEMENT. EXPERTS ON PRISON CONDITIONS RECOMMEND, AS A MINIMUM CHANGE, THAT THE POLICE BE REMOVED TO THE EXTERIOR PATROLLING OF THE PRISONS AND CIVILIAN GUARDS BROUGHT BACK, TO REDUCE MISTREATMENT OF INMATES.

IV. U.S. POLICY

On May 14, 1991, President Fujimori signed a bilateral anti-narcotics agreement with the United States which had been continually negotiated and revised for over a year. In July, the military appendix of the counter-narcotics accord was signed, allowing Peru to receive \$94.9 million in security assistance in Fiscal Year 1991 and a proposed \$139.9 million in FY 92.⁵⁹ The counter-narcotics agreement marks a significant departure from the last 20 years of U.S.-Peruvian relations which have been characterized by minimal U.S. involvement in Peru.

A. THE DETERMINATION

Before Peru can receive any U.S. assistance, however, human rights conditions contained within the U.S. International Narcotics Control Act of 1990 (INCA) must be met. According to those conditions, the Bush Administration must determine that counter-narcotics aid recipients are:

ENSURING THAT TORTURE, CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT, INCOMMUNICADO DETENTION OR DETENTION WITHOUT CHARGES AND TRIAL, DISAPPEARANCES, AND OTHER FLAGRANT DENIALS OF THE RIGHT TO LIFE, LIBERTY, OR SECURITY OF THE PERSON, ARE NOT PRACTICED; AND PERMITTING AN UNIMPEDED INVESTIGATION OF ALLEGED VIOLATIONS OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS, INCLUDING PROVIDING ACCESS TO PLACES OF DETENTION, BY APPROPRIATE INTERNATIONAL ORGANIZATIONS (INCLUDING NONGOVERNMENTAL ORGANIZATIONS SUCH AS THE INTERNATIONAL COMMITTEE OF THE RED CROSS) OR GROUPS ACTING UNDER THE AUTHORITY OF THE UNITED NATIONS OR THE ORGANIZATION OF AMERICANS STATES....

The administration must also determine that "the government of that country has effective control over police and military operations related to counter-narcotics and counterinsurgency activities."

The U.S. Congress adopted the law with these human rights conditions in order to ensure that abusive forces would not receive U.S. assistance and that the U.S. would not be identified with human rights violations in countries receiving aid. The Congress hoped that President Bush would use this requirement to pressure the Peruvians to improve their human rights record.

Unfortunately, the Bush administration has not used the leverage provided to it by Congress. Instead the State Department issued a seriously flawed determination which attempted to defend the human rights practices of the Peruvian security forces in order to justify providing anti-narcotics assistance. The determination, containing numerous errors and misrepresentations of fact, even contradicted the State Department's own *COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1990*, which honestly described the appalling human rights violations committed by the Peruvian military and police. (The administration's uneasiness over submitting the document was demonstrated when, in order to gauge the congressional reaction to the determination, a draft of the determination was unofficially released to relevant committees before the official determination was submitted to Congress. Some administration officials have admitted privately that they did not believe that Peru met the human rights requirements set out in the law.)

The following are four serious errors included in the determination:

1. "NEITHER WE NOR MAJOR HUMAN RIGHTS GROUPS WITHIN PERU BELIEVE THAT THE DEMOCRATICALLY ELECTED GOVERNMENT OF PERU IS ENGAGED IN A CONSISTENT PATTERN OF GROSS VIOLATIONS OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS. WHILE THERE ARE CLEARLY SERIOUS HUMAN RIGHTS ABUSES, THE SITUATION DOES NOT RISE TO THE LEVEL OF A CONSISTENT PATTERN."

⁵⁹ The counter-narcotics package includes \$34.9 million in military aid and \$60 million in Economic Support Funds (ESF), officially designated "security assistance," for FY 91, and \$39 million in military aid and \$100 million in ESF for FY 92. The majority of the ESF is destined for "balance of payment assistance" in order to repay international creditors.

The human rights conditions set out in the law include a requirement that the Peruvian armed forces and law enforcement agencies must not engage in a consistent pattern of gross violations of internationally recognized human rights. Neither Americas Watch nor any other human rights group is accusing President Fujimori of ordering the murder or disappearance of Peruvians. However the Peruvian government has tolerated widespread human rights abuses committed by security forces during President Fujimori's first year in office. The Bush Administration could not claim that the Peruvian armed forces and law enforcement agencies are not committing widespread human rights violations, so it did not.

The Department of State's *Country Reports on Human Rights Practices for 1990* notes:

Security forces personnel were responsible for widespread and egregious human rights violations....There were widespread credible reports of summary executions, arbitrary detentions, and torture and rape by the military, as well as less frequent reports of such abuses by the police....Although the Constitution prohibits torture and inhuman or humiliating treatment, charges of brutality toward detainees are common....Credible reports of rape by elements of the security forces in the emergency zone were so numerous that such abuse can be considered a common practice, condoned -- or at least ignored -- by the military leadership....The constitutional rights of persons detained by the military are routinely ignored.

Although the State Department's report carefully avoids the exact words contained in the INCA legislation, it clearly describes systematic gross violations of human rights in Peru. In addition, while the civilian government may not be directly involved in ordering killings, a recently revealed incriminating draft directive by the Peruvian military advocates disappearing and killing suspected subversives. (See Chapter I, Section E.)

The administration's reference to Peruvian human rights groups in its determination, which made it appear that those groups endorsed the determination's findings, angered many human rights monitors in Peru. Pilar Coll of the Coordinadora Nacional de Derechos Humanos (a coalition of 30 Peruvian human rights groups) stated on July 31 that "The Peruvian security forces systematically violate the most fundamental human rights...the situation has gotten no better over the past year." And in an August 1 letter in response to the determination from the Executive Committee of the Coordinadora to the U.S. Ambassador to Peru, Anthony Quainton, Peruvian human rights leaders wrote that, "...we appeal to your government and to your congress to collaborate with us in our work to defend human life and democratic values. Decisions such as that taken by the State Department are not only unhelpful, but clearly impede that work."

As the preceding pages show, the Bush administration's statement that Peru's violations do not rise to the level of a consistent pattern is demonstrably untrue. The Coordinadora has reported 238 unresolved disappearances during President Fujimori's first year in office. (The Fiscalía de la Nación, has recorded 214 during the first six months of 1991 alone.) Moreover, the counterinsurgency methods used by the military under President Fujimori, which are the same as those used by President García, have resulted in the killings of hundreds of innocent civilians.

2. "Nevertheless, the GOP [Government of Peru] generally respects all aspects of human rights in those areas of the country not designated as military-controlled emergency zones (EZs)."

The majority of human rights violations take place in the emergency zones, a fact which the Bush administration is quick to dismiss in its evaluation of human rights violations in Peru. As of August 1991, approximately 56 percent of the population was living in the emergency zones. The Fujimori government is equally responsible for the well-being of its citizens in emergency zones as it is for the rest of the country. Stating that the Government of Peru "generally" respects human rights in the non-emergency zones can be easily read as an admission that the Government of Peru does not respect human rights in the emergency zones. If so, we agree. However, the human rights conditions set out in the U.S. law require that human rights be respected throughout the country, not only in selected parts of it.

The determination does go on to state that "security forces have at times engaged in practices that include extra-judicial killing and torture, directly contradicting President Fujimori's stated policy of respecting human rights." This statement, and indeed the entire justification for the determination appears to argue that President Fujimori is not himself directly involved in human rights violations, but Peru's security forces are. Therefore, the Bush administration reasons, President Fujimori should not be penalized by withholding security assistance. If this is the administration's view, then Peru does not meet the third condition included in the 1990 INCA -- that the

GOVERNMENT OF PERU "HAS EFFECTIVE CONTROL OVER POLICE AND MILITARY OPERATIONS RELATED TO COUNTER-NARCOTICS AND COUNTERINSURGENCY ACTIVITIES." EITHER THE FUJIMORI GOVERNMENT IS IN CONTROL OF SECURITY FORCES THAT ARE COMMITTING WIDESPREAD HUMAN RIGHTS ABUSES, OR THE GOVERNMENT IS NOT IN CONTROL OF THESE FORCES. EITHER WAY, PERU IS INELIGIBLE FOR AID UNDER THE LAW. THE ADMINISTRATION CANNOT HAVE IT BOTH WAYS.

3. "PERU HAS GRANTED ICRC ACCESS TO ALL POLICE DETENTION FACILITIES NATIONWIDE."

WHILE THE ICRC HAS BEEN GRANTED ACCESS TO POLICE DETENTION FACILITIES, WE HAVE LEARNED THAT THIS ACCESS IS ONLY PERMITTED AFTER THE PERIOD OF PREVENTIVE INCOMMUNICADO DETENTION, WHICH UNDER THE STATE OF EMERGENCY LASTS 15 DAYS. IT IS WELL DOCUMENTED BY HUMAN RIGHTS ORGANIZATIONS THAT THE MAJORITY OF INCIDENTS OF MISTREATMENT AND TORTURE TAKE PLACE IMMEDIATELY FOLLOWING ARREST. ADDITIONALLY, IF A DETAINEE IS TO "DISAPPEAR" IN CUSTODY, THIS WILL USUALLY TAKE PLACE WITHIN THE FIRST 15 DAYS.

THE LAW STATES THAT THE PERUVIAN GOVERNMENT MUST PROVIDE ACCESS "TO PLACES OF DETENTION BY APPROPRIATE ORGANIZATIONS...." THIS ACCESS SHOULD ALSO INCLUDE MILITARY DETENTION CENTERS AND BARRACKS USED AS DETENTION CENTERS THROUGHOUT THE COUNTRY WHERE DISAPPEARANCES COMMONLY TAKE PLACE. YET THE ICRC HAS NOT BEEN GRANTED PERMISSION TO ENTER ALL DETENTION CENTERS, THEREFORE THE PERUVIAN GOVERNMENT HAS FAILED TO MEET THIS SPECIFIC REQUIREMENT.

THIS REQUIREMENT WILL BE FULFILLED ONLY WHEN THE ICRC IS GIVEN *timely* ACCESS TO ALL PLACES WHERE SECURITY-RELATED DETAINEES ARE HELD, IN DIRCOJE AND THE OTHER POLICE FACILITIES, AS WELL AS IN ALL MILITARY FACILITIES, AND ONLY IF THE ICRC IS ALLOWED PRIVATE INTERVIEWS WITH DETAINEES IMMEDIATELY AFTER THEIR ARREST. INDEED, THE PERUVIAN GOVERNMENT MUST PLEDGE TO NOTIFY THE ICRC OF EACH SUCH ARREST AS SOON AS IT TAKES PLACE, AND TO PROVIDE THE ICRC WITH COMPLETE AND PERIODICALLY UPDATED LISTS OF THOSE DETAINEES.

4. "A MILITARY OFFICER WAS REMOVED FROM COMMAND AND IS NOW BEING PROSECUTED IN BOTH CIVIL AND MILITARY COURTS FOR SUSPECTED COMPLICITY IN MASS MURDERS."

THE MEMBER OF THE ARMED FORCES REFERRED TO ABOVE IS ONLY A NON-COMMISSIONED OFFICER (NCO), SERGEANT JOHNNY ZAPATA, KNOWN AS "CENTURION." IN PERU, AN OFFICER IS SOMEONE WITH THE RANK OF SECOND LIEUTENANT OR ABOVE. FURTHER, CENTURION IS REPORTEDLY NOT IN CUSTODY AT THIS TIME.

MOREOVER, THE FACT THAT ONLY ONE MEMBER OF THE ARMED FORCES HAS BEEN PROSECUTED AFTER YEARS OF ABUSES DEMONSTRATES THE SWEEPING IMPUNITY ENJOYED BY MILITARY PERSONNEL IMPLICATED IN HUMAN RIGHTS VIOLATIONS. IMPUNITY REMAINS THE RULE; MOST MILITARY CRIMINALS ARE NOT EVEN CHARGED, AND THE INFREQUENT PROSECUTIONS FACE SUCH OBSTACLES THAT NONE, TO DATE, HAS BEEN SUCCESSFUL. WHILE SOME POLICEMEN HAVE BEEN CHARGED WITH HUMAN RIGHTS ABUSES, NO MILITARY OFFICER HAS EVER BEEN DISMISSED OR CONVICTED FOR SUCH VIOLATIONS. TO THE CONTRARY, TWO ARMY GENERALS WHO HAVE BEEN IMPLICATED IN LANDMARK CASES -- GENERAL JOSÉ VALDIVIA AND GENERAL JORGE RABANAL -- HAVE BEEN PROMOTED AT PRESIDENT FUJIMORI'S REQUEST. (SEE CHAPTER III, SECTION A.)

B. CONGRESSIONAL CONCERN

IN RESPONSE TO THE BUSH ADMINISTRATION'S UNACCEPTABLE DETERMINATION, FOUR CHAIRMEN OF THE RELEVANT CONGRESSIONAL COMMITTEES AND SUBCOMMITTEES PLACED A "HOLD" ON THE RELEASE OF THE AID PENDING FURTHER DEBATE UPON THEIR RETURN IN MID-SEPTEMBER FROM THEIR SUMMER RECESS.

THIS EXPRESSION OF CONGRESSIONAL CONCERN OVER THE HUMAN RIGHTS PRACTICES OF PERU'S SECURITY FORCES PRESENTED ANOTHER OPPORTUNITY FOR THE BUSH ADMINISTRATION TO PRESSURE THE PERUVIANS. UNFORTUNATELY, THIS OPPORTUNITY, TOO, WAS SQUANDERED BY THE BUSH ADMINISTRATION: IN FACT, U.S. EMBASSY PERSONNEL IN LIMA REFUSED TO ACKNOWLEDGE THAT THE HOLD ON THE AID WAS DUE TO CONGRESSIONAL CONCERNS ABOUT HUMAN RIGHTS VIOLATIONS IN PERU. AN EMBASSY SPOKESMAN REPORTEDLY STATED THAT IT WAS NOT A SANCTION BUT A RESULT OF THE PARLIAMENTARY PROCESS. "THE RETENTION IS TEMPORARY," HE REPORTEDLY STATED, "WHEN CONGRESS MEETS IN SEPTEMBER IT WILL RESUME PROCEDURES TO HAND OVER \$95 MILLION DOLLARS TO PERU FOR THIS YEAR...."⁶⁰

⁶⁰ "PERU: GOVERNMENT TO MONITOR HUMAN RIGHTS VIOLATIONS," INTER-PRESS SERVICE, AUGUST 6, 1991.

DURING THE SUMMER RECESS, THE BUSH ADMINISTRATION PRESSURED THE MEMBERS OF CONGRESS WHO HAD PROTESTED THE DETERMINATION AND PLACED A HOLD ON THE RELEASE OF COUNTER-NARCOTICS ASSISTANCE. IN AN AUGUST 28 LETTER TO NUMEROUS REPRESENTATIVES AND SENATORS, ACTING SECRETARY OF STATE LAWRENCE EAGLEBURGER WROTE THAT THE CONGRESSIONAL HOLD ON COUNTER-NARCOTICS ASSISTANCE MIGHT LEAD TO THE COLLAPSE OF PERU'S DEMOCRATIC GOVERNMENT AND ECONOMY, AND WOULD SERIOUSLY THREATEN THE ENTIRE ANDEAN COUNTER-NARCOTICS PROGRAM. THE ADMINISTRATION'S ARGUMENT IN FAVOR OF SECURITY ASSISTANCE FOR PERU, PRESENTED AS THE LAST AND ONLY CHANCE FOR PERU'S SALVATION, SWEEPED HUMAN RIGHTS CONCERNS ASIDE.

THE STATE DEPARTMENT'S HUMAN RIGHTS BUREAU HAS PLAYED AN IMPORTANT ROLE IN PROMOTING MILITARY AID FOR PERU DURING THE CURRENT DEBATE. ASSISTANT SECRETARY OF STATE FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS RICHARD SCHIFFTER VISITED PERU IN JULY, YET DID NOT USE THAT OPPORTUNITY TO PUBLICLY CONDEMN RAMPANT HUMAN RIGHTS ABUSES. AND OFFICIALS FROM THE HUMAN RIGHTS BUREAU MADE IT CLEAR THAT THE BUREAU SUPPORTS THE ADMINISTRATION'S HUMAN RIGHTS DETERMINATION DESPITE THE FACT THAT THE DETERMINATION WAS WIDELY REPUDIATED BY U.S. AND PERUVIAN HUMAN RIGHTS ORGANIZATIONS.

IN DEFENDING THE HUMAN RIGHTS RECORD OF THE FUJIMORI GOVERNMENT, THE BUSH ADMINISTRATION HAS EMPHASIZED THE PERUVIAN GOVERNMENT'S PERCEIVED COMMITMENT TO IMPROVE THE HUMAN RIGHTS PRACTICES OF ITS SECURITY FORCES. IN PARTICULAR, THE ADMINISTRATION POINTS TO RECENT GESTURES BY THE PERUVIAN GOVERNMENT, SUCH AS THE DECREE ISSUED ON SEPTEMBER 3 WHICH GUARANTEES ACCESS FOR PERU'S PROSECUTORS TO ALL PLACES OF DETENTION, INCLUDING MILITARY BARRACKS. LONGER-RANGE INITIATIVES, LIKE A COUNCIL FOR PEACE TO SEEK ALTERNATIVES FOR A PACIFICATION STRATEGY IN CONSULTATION WITH REPRESENTATIVES FROM MANY SOCIAL SECTORS, ARE ALSO PRAISED BY THE BUSH ADMINISTRATION. AMERICAS WATCH WELCOMES THESE PROPOSALS, HOWEVER WE WOULD NOTE THAT ALL OF THESE PROMISED MEASURES WERE ANNOUNCED FOLLOWING THE BUSH ADMINISTRATION'S DETERMINATION AND THE ENSUING CONTROVERSY OVER ITS VERACITY.

THE TIMING OF THE GOVERNMENT'S NEW PROPOSALS RAISES THE QUESTION OF WHETHER THEY MAY HAVE BEEN ANNOUNCED IN ORDER TO SILENCE CRITICS AND GUARANTEE THE RELEASE OF THE COUNTER-NARCOTICS ASSISTANCE. UNTIL THESE MEASURES ARE ACTED UPON, AND THEIR EFFECTIVENESS EVALUATED, AND ALL CONDITIONS WITHIN U.S. LAW HAVE BEEN MET, PERU SHOULD REMAIN INELIGIBLE FOR SECURITY ASSISTANCE.

THE BUSH ADMINISTRATION HAS ALSO TRIED TO CONVINCE CONGRESS THAT U.S. MILITARY ASSISTANCE WILL HELP TO PROFESSIONALIZE AND HUMANIZE PERUVIAN SECURITY FORCES, WITH THE MAJORITY OF THE AID REPORTEDLY DESTINED FOR TWO COMBAT BATTALIONS AND THE CREATION OF A RIVER PATROL FORCE.⁶¹ PAST EXPERIENCE OF U.S. MILITARY TRAINING OF ELITE BATTALIONS IN LATIN AMERICA GIVES LITTLE REASON TO HOPE THAT U.S. INVOLVEMENT WILL RESULT IN THE HUMANIZING OF THESE BATTALIONS. U.S. ANTI-NARCOTICS ASSISTANCE TO POLICE FORCES IN THE UPPER HUALLAGA VALLEY, FOR EXAMPLE, DID NOT DETER DRUNKEN MEMBERS OF THOSE FORCES FROM SHOOTING DOWN A COMMERCIAL AIRLINE, RESULTING IN 17 DEATHS. (SEE CHAPTER 1, SECTION A.)

ACCORDING TO STATE DEPARTMENT OFFICIALS, \$1 MILLION OF THE MILITARY AID WILL BE USED FOR HUMAN RIGHTS TRAINING. THE NOTION OF U.S. TRAINERS PROVIDING HUMAN RIGHTS INSTRUCTION CONTRASTS WITH SUCH CANDID STATEMENTS AS ONE MADE BY A U.S. OFFICIAL WHO SAID, "IF YOU'RE GOING TO TELL THEM HOW TO USE AN M-16, IT ISN'T A QUESTION OF WHO IS THE TARGET."⁶²

C. Assistance for Military Courts

⁶¹ CLIFFORD KRAUSE, "U.S. MILITARY TEAM TO ADVISE PERU IN WAR AGAINST DRUGS AND REBELS," *NEW YORK TIMES*, AUGUST 7, 1991.

⁶² EUGENE ROBINSON, "PROPOSED U.S. MILITARY AID TO PERU TREADS A PRECARIOUS PATH," *WASHINGTON POST*, AUGUST 19, 1991.

THE BUSH ADMINISTRATION HAS PROPOSED TO CONGRESS THAT A PORTION OF THE MILITARY AID BE USED TO SEND REPRESENTATIVES OF THE U.S. ARMY JUDGE ADVOCATE GENERAL TO ASSIST WITH THE REVISION AND ENFORCEMENT OF THE MILITARY CODE OF JUSTICE. HOWEVER, MILITARY "JUSTICE" AS CURRENTLY PRACTICED CONSISTS OF OBTAINING MILITARY COURT JURISDICTION FOR HUMAN RIGHTS CASES INVOLVING MILITARY PERSONNEL IF THERE IS A THREAT OF PROSECUTION IN A CIVILIAN COURT. THIS PRACTICE VIRTUALLY GUARANTEES IMPUNITY FOR MILITARY OFFICERS ACCUSED OF HUMAN RIGHTS VIOLATIONS. NO MEMBER OF THE ARMED FORCES HAS EVER BEEN PROSECUTED AND PUNISHED FOR HUMAN RIGHTS ABUSES IN THESE COURTS. THE MILITARY DOES NOT INITIATE ITS OWN INVESTIGATION OR PROSECUTION OF GROSS VIOLATORS OF HUMAN RIGHTS WITHIN ITS RANKS UNLESS THE CIVILIAN COURTS HAVE BEGUN THEIR OWN INVESTIGATION OR PROSECUTION. ONCE THE MILITARY CLAIMS JURISDICTION OVER A CASE, THE SUPREME COURT TYPICALLY AWARDS JURISDICTION TO THE MILITARY COURTS AND THE CIVILIANS MUST GIVE UP THE CASE, RESULTING IN THE DEFENDANT'S QUICK EXONERATION.⁶⁵ THE CASE IS THEN CLOSED AND THE DEFENDANT CANNOT BE TRIED TWICE FOR THE SAME CRIME.

THE MILITARY CODE OF JUSTICE DOES NOT NEED REVISION: IN FACT, THE CODE OF JUSTICE CLEARLY STATES THAT TORTURE, DISAPPEARANCES AND MURDER ARE NOT "ACTS OF DUTY" AND THEREFORE NOT SUBJECT TO MILITARY COURT JURISDICTION. SINCE MILITARY COURT JURISDICTION IS NOTHING BUT A TOOL FOR IMPUNITY, NO AMOUNT OF U.S. AID CAN MAKE IT BENEFICIAL TO HUMAN RIGHTS. ANY U.S. ASSISTANCE FOR JUDICIAL REFORM SHOULD BE USED TO ENHANCE THE CIVILIAN JUDICIAL SYSTEM, WHERE HUMAN RIGHTS CASES SHOULD BE TRIED.

⁶⁵ SEE FOR EXAMPLE, AMERICAS WATCH, *IN DESPERATE STRAITS*, PP. 27-37.