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DRAFT 1988 HUMAN RIGHTS REPORT
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Peru has a freely elected democratic government, with an executive branch headed by a president, a bicameral legislature, a separate judiciary, and an autonomous attorney general. Peru's history has been punctuated by periods of military rule, most recently between 1968 and 1980. President Alan Garcia and his American Popular Revolutionary Alliance (APRA) won the last general elections in 1985 by a large margin though representation in Congress ranges from conservative to Marxist. The next national elections are scheduled for 1990. Independent trade unions are active, and freedom of speech and of the press are generally respected. The media is often critical of the government.

The military leads the effort to combat subversion outside Lima in the 36 provinces now under a state of emergency. These states of emergency place all executive branch authority in the local military command, suspend restrictions on arbitrary detention and the requirement for search warrants, and restrict rights to movement and assembly. Civilian control over the military has been constrained by Peru's history of military coups. There is little oversight of military activities in the emergency zones by civilian judges or prosecutors, and the constitutional rights of persons detained by the military are routinely ignored. The Interior Ministry and its police services have the primary counterterrorist role in Lima and those departments not under a state of emergency.

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Peru has a mixed economy, and private property is generally respected. Strict price controls, higher wages, and restrictions on foreign debt repayment brought temporary growth to the Peruvian economy in 1986 and 1987. It became apparent by early 1988, however, that these policies were unsustainable. Export earnings fell, unemployment rose, central bank reserves plummeted, and the fiscal deficit fueled an inflationary spiral. Austerity measures during 1988 will result in a further deepening of the recession.

Since 1980, the Sendero Luminoso (Shining Path) Maoist guerrillas have used terror to undermine democracy and the economy. Although not alone in committing abuses, Sendero is the major human rights violator and bears primary responsibility for the rise in violence in Peru. Lacking widespread popular support, it regularly assassinates local officials, APRA party figures, police and soldiers, and ordinary citizens who are considered anti-Sendero, principally Indian residents of the Andean highlands.

Sendero violence escalated in 1988. The group attacked factories and peasant-owned agricultural cooperatives, destroyed dozens of high tension electrical towers resulting in widespread power disruptions, and continued to kill school teachers, engineers and development workers, including an American citizen. In addition, two other smaller terrorist groups are active. It is believed that at least 600 persons were killed in terrorist incidents in 1988.

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Sendero Luminoso continued in 1988 to operate in the major coca producing area of Peru, the Upper Huallaga Valley. Sendero has both defended peasant coca producers against narcotics traffickers and cooperated with traffickers to thwart enforcement efforts. Sendero also increased its activities in Lima and other urban centers in 1988, openly participating in public demonstrations in Lima and infiltrating some labor unions.

Documented cases of widespread human rights abuses by government security forces began to diminish in mid-1985. Nevertheless, human rights organizations state that since 1985 it has become gradually more difficult to carry out independent investigations of alleged summary executions and detentions by the military. Regional military commands deny access to the emergency zones where the vast majority of alleged human rights violations by both military and Sendero occur.

Amnesty International reports that disappearances and summary executions appear to have increased in the past two years. Other human rights groups concur. Reliable human rights organizations reported 170 complaints alleging arbitrary detentions by security forces, of which 34 were resolved. These groups fear that most of the remainder are victims of summary executions. There are credible reports of the use of torture by the military. Trials of military personnel accused of human rights violations move slowly and no military or security personnel were convicted of human rights abuses in

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1988. Congressional investigations of alleged abuses have been severely criticized as inadequate. Independent investigations of alleged military killings have been hampered by military commanders.

1988 also marked the emergence of an anti-terrorist vigilante group calling itself the Rodrigo Franco Democratic Command. The group claimed responsibility for the murder of a prominent attorney. It is also responsible for threats against an independent special prosecutor investigating alleged human rights violations by the military. There are reports of clashes between armed Sendero terrorists and Franco commandos as well as other allegations that extremist members of APRA or the security forces may be using the group's name to conduct operations against suspected terrorists and sympathizers.

There were positive developments in 1988. The president in July proposed new anti-terrorism laws and the modification of existing statutes in an effort to remedy the low conviction rate among accused subversives. The Chamber of Deputies is debating several of these proposals. In early 1988, the government of Peru established a multi-party Senate Commission on Violence and Pacification. That Commission reported its findings in September, including 18 recommendations to reduce violence in Peru. The recommendations, unanimously endorsed by the Commission members, include: eliminating the emergency zones, strengthening the judicial branch, and placing all anti-subversive efforts under civilian control.

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RESPECT FOR HUMAN RIGHTS

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

a. Political Killing

Political killings remained a significant problem in 1988. Sendero continued to assassinate policemen, soldiers, government and ruling party officials, teachers, engineers, and development workers, as well as Indian peasants. Reliable estimates on the number killed in Sendero violence in 1988 range from 600 to 650. Due to the isolation of many rural areas where Sendero is most active, the number of victims almost surely is underreported. In the countryside Sendero used violence, particularly assassinations, to impose its administrative control over certain areas, to punish so-called "traitors," and to eliminate opposition. In the cities, Sendero used assassinations more for propaganda purposes, although in 1988 the assassinations of factory foremen and threats against union leaders appeared designed to increase Sendero influence in some urban labor unions. The pattern of Sendero killings of government and party (APRA) officials, which rose significantly in 1986 and 1987, continued in 1988.

Sendero killings in 1988 included at least 62 peasants in five villages in Ayacucho department in December 1987 and January 1988. Also in January, Sendero combatants disguised as soldiers, entered a village in La Mar province, rounded up the

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villagers in the town square, and beheaded 24. In February, five state telecommunications workers were killed in San Martin department. In March, Sendero ambushed a government vehicle in the Huanuco department killing eight police and seven civilians. In April, six civilian authorities were executed in the square of their village in the Lima department. In June, residents of a Huanta department village were assembled to witness the execution of fourteen. In July, a judge and the governor of the Ica department were assassinated. The lieutenant governor, an engineer, and another government worker were killed in Junin department in August. In September, a lieutenant governor and his wife were shot, and their two minor children were abducted and remain missing. Among the 1988 victims of Sendero assassinations was an American citizen working in a rural development project in Huancayo department. He and a Peruvian colleague were executed June 14 on a rural highway.

The Minister of Defense reports that since 1980, 4,000 peasants, 426 police, 138 military, and 206 civilian authorities have been assassinated by Sendero. At least 70 of those killed in 1988 were engineers, agronomists, school teachers, and other professionals.

A second terrorist group, the Tupac Amaru Revolutionary Movement (MRTA), continues to operate primarily in Lima and its environs. Though the MRTA chiefly seeks the destruction of property through the selective bombing of banks, factories, foreign businesses and diplomatic installations, these

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bombings killed 6 people in 1988. MRTA also assassinated a woman in a Lima hospital whom it claimed was a police informer. In July 1988, the MRTA kidnapped an industrialist and retired military officer to demand ransom.

The government claims to have killed 4,500 terrorists since 1980, including approximately 200 in 1988. Though the military may inflate this count, confirmed killings of terrorists may also be underreported since Sendero attempts to retrieve all its casualties, including fatalities, following clashes with the military. A significant but unknown number of captured terrorists and innocent civilians are allegedly executed by the military.

Although the number of summary executions has dropped since 1985, most human rights organizations believe that the actual numbers are far higher. According to an August 1988 report from Amnesty International, the decrease in the reported number of summary executions is the result of a government and military effort to hide abuses. Most press and human rights organizations are routinely barred from entering the emergency zones where alleged abuses occur. Two notable cases of probable military killings occurred in 1988. On May 14, the day following a Sendero ambush which killed 4 soldiers and wounded 15, the military allegedly entered the Ayacucho department village of Cayara and rounded up and killed at least 28 villagers. It is believed the military suspected the villagers of abetting the Sendero. Cayara villagers report being forced into their homes by the military but later seeing

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military trucks hauling away what appeared to be corpses. The military claimed a number of terrorists were killed in a shoot-out inside the village. An independent prosecutor began to investigate the incident, but the bodies of the presumed victims disappeared from a mass grave where they had been discovered (it is believed that the military hid the bodies in an unknown second site). These events, together with the disappearance of witnesses to the killings has convinced most impartial observers that the military did indeed kill the villagers.

A second well-publicized case was the attempted summary execution in May of postal worker Sonia Munoz of Huancavelica department. She stated that she was taken from her home to a military barracks, tortured, shot several times, and left for dead by soldiers who presumably believed her to be a Sendero collaborator. The perpetrators attempted to disguise their deed as a Sendero assassination by leaving a note affixed to her clothing stating that she had been killed for being an informant.

In neither the Cayara nor the Munoz cases, nor in any other 1988 incident of alleged military or police human rights violations, was a thorough investigation conducted or were charges brought against security officials. Following the Cayara massacre, two witnesses led press and other observers to a common grave in which three bodies were found. President Garcia stated that Ayacucho's special prosecutor, Dr. Carlos Escobar, would receive full support for his investigation of

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the incident. Nevertheless, the prosecutor's requests for assistance from the Ayacucho military command were denied or ignored. Dr. Escobar stated publicly that the military command has hindered his investigation, including refusing to release the three bodies for an independent autopsy. Two congressional committees appointed to investigate the massacre have made inconclusive reports that have been severely criticized by responsible, informed observers.

The trial of 77 army and police officials accused of using excessive force in the 1986 deaths of 124 inmates at the Lurigancho prison, remains in process. The military justice code contains no specific language for dealing with cases of killing, kidnapping, or torture -- only "negligence" and "abuse of authority." A prestigious public polling organization found in January 1988 that 86 percent of Peruvians in a sample survey believed that the military kills innocent people in its anti-insurgency efforts.

Allegations in 1987 that members of APRA or security forces were using paramilitary violence against suspected terrorists were lent credence by the emergence in 1988 of the "Rodrigo Franco Democratic Command." (Rodrigo Franco, an APRA party leader, was assassinated by Sendero in 1987.) The Franco command claimed responsibility for the July assassination of attorney Manuel Febres, defense counsel for accused Sendero leader Osman Morote. Ayacucho special prosecutor Escobar received threats in August from individuals claiming membership in the group. The press in August reported the

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arrest of 14 APRA youth allegedly armed with revolvers and explosives near the San Marcos University. In September, hospital workers in Tingo Maria who had criticized the lack of government support, claimed they were threatened by the command. Also in September, the Huanuco department home of a reporter for the pro-Sendero paper "El Diario" was allegedly dynamited by this vigilante group. Published reports claim armed clashes between Sendero and Franco cadres have occurred inside the Ayacucho Emergency Zone.

The pattern of human rights violations, particularly political killings, spring from several underlying factors. Poorly trained and under-financed police and a weak judiciary result in a low rate of convictions against accused terrorists. This results in police frustration and lack of confidence in the legal system. A lack of economic resources limits development programs, leaving the military as the principal counter-insurgency agent. On the grounds that Sendero's hold in rural areas is based on terror, this role has been abused as the military adopts similar tactics of intimidation. Finally, there is a public tolerance for human rights abuses which do not affect the middle and upper classes.

b. Disappearance

Since 1983, there have been between 2,500 and 3,200 cases of disappearances involving the security forces. The majority occurred prior to 1985. Local human rights groups estimate that there were approximately 140 unresolved disappearance

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cases in 1988. Most involved the detention of individuals suspected of terrorist links in the emergency zones, but there have been notable cases in Lima as well. The October 1986 disappearance of Jose Vasquez Huayac, the February 1987 disappearance of student Angel Perez Ali, the May 1987 disappearance of accused Sendero member Santiago Castillo Caverro, and the October 1987 case of Sendero sympathizer Carmen Rosa Rodriguez, all in Lima, remain unresolved. Though a larger percentage of those detained by security forces within the security zones have reappeared, human rights groups believe that the majority of the remainder were or will be summarily executed. The bodies of disappearance victims are rarely found. Based on testimony of survivors, including Sonia Munoz, it appears that most victims are taken to military bases for interrogation. Some are turned over to the police after long detentions and afterwards are freed for lack of incriminating evidence. Human rights groups argue persuasively that the rest are summarily executed by the armed forces, though the Public Ministry estimates that about 10 percent of these cases involve persons who are released, change their residence, or join Sendero.

The December 1986 report by the United Nations Human Rights Commission (UNHRC) working group on forced or involuntary disappearances noted that "although there were fewer cases, the structures that permitted disappearances to occur remained intact." The September 1988 report by the Peruvian multi-party Senate Commission on Violence and Pacification agreed, stating: "there are violations of human rights,

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consisting in crimes against innocent populations; extrajudicial executions, torture, arbitrary detentions, disappearances; and appearing involved in these condemnable acts are members of the armed forces and the police."

c. Torture and Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution prohibits torture and inhuman or humiliating treatment. Charges of brutality toward detainees are nevertheless common. Human rights groups claim that suspected subversives are routinely tortured at military detention centers. Lawyers and other persons familiar with the police and judicial system concur. A 1986 Interior Ministry report confirmed police torture of peasants in Cusco. In 1987 the public ministry noted that the majority of military detainees showed signs of mistreatment or torture. In 1988, there were several reliable accounts from released detainees of torture or mistreatment both by police and military, including eye-witness accounts by two American citizens briefly detained on terrorism charges and then released.

Many victims of Sendero brutality also show signs of having been tortured before death. Torture often follows a brief "trial," normally held in the presence of rural villagers. The Sendero's methods of execution -- slitting throats, strangulation, and burning -- are particularly brutal. In addition there are credible reports that Sendero frequently beats or tortures peasants who withhold their support.

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The 1987 terrorism law requires that persons detained for terrorism be interrogated only in the presence of a public prosecutor and a defense attorney. In these cases, a court indictment must be sought within 15 days of arrest or the prisoner released. There are few reliable reports of violations of these standards in areas administered by the Interior Ministry's investigative police. In the Emergency Zones (except Lima and Callao), the military rarely adheres to these requirements and, in fact, need not do so under the state of exception.

Prison conditions are poor, and prisoners are likely to experience unsanitary facilities, poor nutrition and health care, and ill treatment by prison staff. In 1988 there was a well-documented case of a foreign prisoner dying of pneumonia due to negligence of prison officials. Because of the large numbers of convicted and accused terrorists, many prisons have reportedly fallen under Sendero or MRTA control. Prison visitors report open displays of Sendero propaganda, the free exercise of Sendero political re-education programs, and in at least one case in 1988, the execution of a fellow prisoner accused of being an informant by Sendero inmates. The ICRC again in 1988 was denied access to detainees in the military-controlled Emergency Zones and to police detention centers where interrogations occur prior to indictment.

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d. Arbitrary Arrest, Detention, or Exile

The constitution, the penal code, and anti-terrorist legislation clearly delineate the arrest and detention process. However, these protections are suspended in those areas under a state of emergency. In areas not subject to a state of emergency, a warrant approved by a public ministry prosecutor is required for arrest. Persons arrested must be arraigned within 24 hours, except in cases of drug trafficking, terrorism, or espionage, for which the limit is 15 days. Detainees have the right to choose their own counsel, or the government provides counsel at no charge. Arrested persons are entitled to have an attorney present when they make statements to the police. Under the 1987 terrorism law, police must also notify the detainees' family and human rights groups of an arrest. There is no bail or provisional liberty for persons accused of terrorism.

Arrest procedures are different in the rural Emergency Zones. The armed forces do not need an arrest warrant, and detainees are often denied access to an attorney during interrogation and to family members during their imprisonment. All detainees, including those in the emergency zones, have the right to seek judicial determination of the legality of their detention, but this right is routinely denied by military commanders in the emergency zones. Of the several thousand prisoners outside the emergency zones, human rights groups know of few turned over by the military to civilian authorities for prosecution.

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Since 1986, human rights groups note that an increasing number of persons detained by the military in the emergency zones reappeared after a period of incommunicado detention. This may reflect government pressure to reduce long-term detentions and summary executions. Arbitrary arrests and detentions in the emergency zones in 1988 are estimated in the hundreds.

In 1988, the military arbitrarily began to detain persons entering the emergency zones to investigate human rights cases. In July, 4 social workers from a Catholic Church social agency were detained for 28 hours without charges. Also in July, 5 members of a parochial organization were held for 48 hours without charges. The 5 were arrested while investigating the arbitrary arrest of a Catholic priest and a lay worker. In Lima, a Catholic priest was detained on three occasions and questioned about his labor organizing activities. Following the Cayara killings, the military arrested a number of Cayara villagers, including some who claimed to have been witnesses of the massacre. Several remain under incognito detention. The constitution prohibits, and there have been no known cases of, involuntary exile in the past 8 years.

e. Denial of Fair Public Trial

The judiciary is a separate branch of government. Supreme court judges are nominated by the president and ratified by the Senate. All judges may serve until age 70. The legal system is based on the Napoleonic Code. Once criminal charges

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are filed, a judge determines whether probable cause exists. The judicial process prior to trial may last several months, followed by a public trial. Defendants have the right to be present at the trial. There is no jury trial. Sentences may be appealed, and judges may send cases back to lower courts for additional investigation. Public defenders exist but in inadequate numbers. Many judges on the superior and supreme courts are active in political parties, and claims of politically motivated decisions sometimes occur.

Courts face severe backlogs, a product of the sharp increase in terrorism cases, inefficiency, and influence peddling. The justice ministry stated in July 1988 that there is a backlog of nearly 45,000 criminal cases. The government also acknowledged that a majority of prisoners have not been sentenced, but remain at some stage of the trial process. Human rights groups have documented numerous cases of persons who have been detained without bail, awaiting trial, for periods up to 4 years. There are also widespread charges of corruption and the suborning of judges, police and witnesses at all stages of the judicial process.

Threats and intimidation of judges handling terrorism cases are a serious problem, accounting in part for the low conviction rate of probable terrorists. The July 1988 acquittal of suspected terrorist and Sendero leader Osman Morote on two of the eight initial charges against him is believed to have been partially the result of death threats against the judges hearing the case (including a break-in at

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the prosecutor's home). Morote's acquittal was subsequently reversed on appeal, but this has done little to restore faith in the judicial system. Similarly, the August 1988 release of convicted cocaine baron Perciles Sanchez was cited as evidence of judicial weakness. Well-informed lawyers were also critical of the lack of cooperation between the special investigations police under the Interior Ministry who investigate leading to arrest, and the prosecutors under the Public Ministry who conduct their own investigations as a part of the trial process. Fewer than 20 percent of those arrested for security violations are convicted, a notoriously low rate that leads to police frustration with the judicial process and public tolerance of police abuses.

Congress created special tribunals to hear terrorism cases in 1987, and promised greater security measures to protect judges and witnesses. The tribunals began receiving cases in October 1987. There were immediate problems with finding judges who were willing to serve on the courts, providing the guarantees of safety noted in the enabling legislation, and with the large backlog of cases. Overwhelmed by these problems, the special tribunals were abolished in April 1988. President Garcia proposed their reestablishment in July 1988.

The constitution mandates that civilians be tried in civilian courts. The Supreme Court decides whether military and police offenders are tried in civilian courts, or in a separate military court system. The military asserts its jurisdiction in these cases, and the court generally rules in its favor.

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The last attempt in 1986 to have a civilian court try a military officer was thwarted when the officer fled to avoid trial. The civilian courts are making slow progress on several cases involving alleged police violations of human rights. Cases not concluded include those against police charged in: the 1982 killing of prisoners in an Ayacucho hospital; the 1982 death of Francisco Nufflo; and the 1986 torture of detainees in a Cusco police station. Convictions were handed down against police accused in the 1983 killing of 32 peasants in Soccos and in the 1984 death of peasant leader Jesus Oropeza.

Military trials are not public and little is known about specific cases. No member of the armed forces has ever been convicted in either military or civilian courts for human rights violations. The military claims that offenders are severely disciplined. Cases reportedly pending in military courts include charges against: a lieutenant for the 1985 murder of 69 persons in Accomarca; an officer for three 1985 Huanuco deaths; two cases involving mass graves discovered in Pucayacu in 1984 and 1985; officers accused of 1986 executions in Parco and Pomatambo; and military personnel involved in the 1986 killings at Lurigancho prison. In the Lurigancho case, the military prosecutor has asked for sentences ranging between 6 and 25 years against the 77 accused security force members (6 army officers, 20 police officers, 51 police enlisted men). The prosecutor requested a 25 year sentence for police Colonel Roland Cabezas and six years for Army General Jorge Rabanal.

PERUf. Arbitrary Interference with Privacy, Family, Home
or Correspondence

The constitution stipulates that the police need a judicial warrant to enter a private dwelling, and this is generally respected in practice. The requirement is suspended in the Emergency Zones, however, and security forces in those areas routinely conduct searches of private homes without warrants. Sendero and MRTA violence is often directed against private homes and includes injury to the families of targeted victims. The Sendero routinely commit assassinations during hours of darkness in the homes of its intended targets, or abducts its victims from their homes to be killed elsewhere. MRTA violence against property included the 1988 attack on the home of the American ambassador in Lima.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and the press. With seven television stations, over 50 radio stations, 15 daily newspapers and many magazines in Lima alone, Peruvians have access to news and opinion of every political stripe, terrorist groups included. The media are highly partisan. The government owns one of the two national television networks, a national radio network, and three newspapers; the government party controls two newspapers and a magazine. Most major opposition parties control their own

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newspapers, and opposition figures also have frequent access to the government media.

Fears of government take-overs of the media in the wake of the 1987 bank nationalization, and of government manipulation of supplies newsprint, and import dollars, did not materialize. Nevertheless there are still occasional and credible complaints of government pressure on the media, and incidents of restrictions on journalists. Press guarantees are generally honored. While violations do occur, they do not reflect an over-all trend.

Journalists are effectively barred from traveling in the rural areas of the Emergency Zones, and those who attempt to do so are occasionally detained by the military, although they are generally released within hours. The government refusal to allow the media free access to the village of Cayara in the wake of an alleged massacre there provoked criticism and complaints. There are also frequent complaints of police confiscation of video and photographic material of events the government does not want publicized.

On August 20, police seized several thousand copies of the pro-Sendero daily "El Diario." The edition contained a purported interview with Sendero leader Abimael Guzman. Three days later, police detained the newspaper's editor on charges of terrorism. Local and international press organizations protested the detention. The Peruvian government has proposed controversial new legislation to prohibit "apologies" for and



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encouragement of terrorism. While many journalists consider the measures necessary, others fear that the law could have a chilling effect on press freedom and could be used by the government to limit reporting on human rights abuses.

Journalists are also sometimes the victims of violence and threats. One journalist was threatened, allegedly by APRA activists. A dead dog bearing a threatening message from the "Rodrigo Franco Democratic Front" was hung outside the home of an "El Diario" reporter in Ayacucho. A journalist received threats after reporting alleged links between Sendero Luminoso and narcotics traffickers in the Upper Huallaga Valley. Two radio reporters in Tingo Maria were murdered for unknown motives. Two American journalists were briefly detained by anti-terrorism police in 1988.

b. Freedom of Peaceful Assembly and Association

These rights are expressly provided for in the constitution and are normally respected in practice in areas not under a state of emergency. Municipal authorities usually approve permits for demonstrations. Unauthorized demonstrations occur and for the most part the government deals with them in a non-confrontational manner. Recently, however, as opposition groups adopted more provocative tactics, the government often denied permits or broke up marches when they occurred. In 1988 police resorted more often to the use of tear gas, buckshot, and firetruck-mounted water cannons to disperse unruly or threatening crowds, including cases where opposition

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congressmen were roughed up or sprayed with buckshot. A majority of unauthorized demonstrations during 1988 met with some government containment or interference. One student was killed in a May protest following the Cayara massacre. Hundreds of students were arrested in unauthorized demonstrations in Lima and Arequipa during 1988. Demonstrations by workers and labor groups were similarly restrained by police.

c. Freedom of Religion

The Roman Catholic faith predominates in Peru, and the constitution formally recognizes the church. The constitution also establishes the separation of church and state and ensures freedom of religion and conscience. These rights are respected in practice. Members of minority religions encounter no government interference in practicing their faith or in exempting their children from religious instruction in public schools. Missionary organizations operate freely in the country with the cooperation of government ministries.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and repatriation

The constitution provides for the right of free movement and there are no political or legal constraints on foreign travel or emigration. Since 1985 nearly 120,000 Peruvians have emigrated to other nations. Freedom of movement is suspended in those areas under a state of emergency. Peru is a party to

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the 1967 United Nations Protocol on the status of refugees. Persons fleeing turmoil in other countries traditionally have been encouraged to eventually return to their country of origin or to emigrate to third countries but have not been forced to do so. Involuntary repatriation occurs only in cases of persons accused of nonpolitical crimes.

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

Peru is a democracy governed by a freely elected president and congress. The political process is open and elections are vigorously contested by parties ranging from conservative to Marxist. Sendero Luminoso persistently seeks to deny citizens their political rights -- particularly in remote mountain areas -- by killing candidates and elected officials and threatening voters. Sendero leaders have publicly stated their intention to disrupt the 1990 elections. Suffrage is universal for persons over 18 years of age, except for members of the military. Balloting is secret. In April 1985, Peru held open and free elections for a president, two vice presidents, and 240 congressmen and senators. The July 1985 inauguration of President Garcia marked the first transfer of power between democratically elected governments in 40 years, and the first accession to power of APRA (which holds a majority in both houses of Congress). Nationwide municipal elections took place in November 1986, contested by three major parties and more than a half-dozen smaller ones. Although most of the contests occurred without incident,

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several important races were close and led opposition losers to claim the government had committed fraud or improprieties. In January 1987, the independent national election board ruled that no fraud had occurred.

Section 4 Government Attitude Regarding International
and Nongovernmental Investigations of
Alleged Violations of Human Rights

Americas Watch and the Washington Office on Latin America sent representatives to Peru during 1988, and a UNHRC group visited in 1986. Outside of the Emergency Zones, the government did not impede or restrict these groups' access. The Americas Watch representative was not permitted to visit the countryside outside Ayacucho and a military commander required him to curtail a visit to Ayacucho and return to Lima. Access by the ICRC to the emergency zones and to security detainees in Lima has also been restricted. Local human rights organizations complain that they are limited by the military in their efforts to investigate human rights abuses in the Emergency Zones. Most local human rights groups state that they are not harassed or threatened by the government, but that their requests to the government for information are usually ignored.

Several private human rights organizations constitute the independent national coordinator for human rights. These include the Association for Human Rights, the Catholic Church's Episcopal Commission for Social Action, the National

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Human Rights Commission, and the Institute for Legal Defense. Smaller groups work in the departmental capitals and other cities. These groups are generally credible observers, but concentrate on government actions to the exclusion of terrorist abuses. Lima is also the headquarters of the Andean Commission of Jurists.

The government complains that both local and international human rights groups distort or exaggerate human rights problems. In its 1988 report, the Peruvian multi-party senate commission on violence noted that the propaganda effort of pro-Sendero agents in the U.S. and Europe is partly to blame for this one-sided picture.

Section 5 Discrimination Based on Race, Sex, Religion,
Language, or Social Status

The constitution grants women equality with men, and laws on marriage and divorce do not discriminate against women. Nevertheless, tradition impedes the access of women to leadership roles in major social and political institutions. There are three women in the 60-member Senate and ten in the 180-member Chamber of Deputies. There is one woman in the cabinet. Women represent 26 percent of the labor force. In 1984, 61.9 percent of the female work force was employed in commerce and services, 16.6 in the industrial sector, and the 19.5 in other occupations, mainly as domestics. The average wage of male workers is double that of females.

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The rural and indigenous population and Peru's small black community face situations similar to those of women. The former group traditionally has lacked access to public services. Composed of several distinct geographic regions, Peru is a classic case of differential development. Public investment traditionally has been focused on the coast, drawing migrants to the cities, especially Lima. One-third of the population is in the capital area and produces two-thirds of the gross domestic product. The government has increased the flow of resources and services to poor, largely Indian rural areas. Development efforts, however, have been affected by the difficulty and cost of providing services to areas out of the mainstream of Hispanic culture, and by the continued disruption of these efforts by Sendero. As a result of these problems, as well as historic prejudice, the economic and social needs of Peruvians of European ancestry are more likely to be met than those of Peruvians of mixed or pure Indian heritage.

Section 6 Worker Rights

a. Right of Association

The Peruvian constitution guarantees the right of workers to freely associate and form labor unions without previous authorization. In practice, however, there are legal restrictions on the right to organize (see below), and a registration requirement with the Ministry of Labor in order for the union to become legal and capable of performing its

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functions. Suspension or dissolution of labor unions is forbidden by the constitution. Yet, it can be done legally through the civil court system at the request of the union itself, or by cancellation of the union's registration by the Ministry. Unions in enterprises of like economic activity can form federations and those, in turn, confederations, all of which can be affiliated with international labor organizations. Private and public sector unions of workers performing the same type of work cannot join together at any level. The constitution guarantees the right to strike "according to law." There is no strike law, however, even though congress has considered bills on and off since the constitution was promulgated in 1979. Workers in the private sector must give 72-hours notice to the employer and the ministry of labor before going on strike. When direct negotiations between workers and employers break down, the government intervenes and constitutes a tripartite board to review the situation. If no agreement is reached, the government then weighs the employer's and the workers' positions against what the economy can sustain and comes up with a solution which can be appealed in the civil court system. The government will make a final offer which, if rejected, will open the way for declaring the strike illegal. Illegality will lead to the dismissal of workers or union leaders and open the way for the employers to bring in strike breakers legally. There are no norms regulating strikes in the public sector. Labor unions are highly politicized and most are affiliated with a political party. Unions are most efficient in representing workers at the bargaining table.

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b. Right to Organize and Bargain Collectively

Government rules stipulate that in the private sector, only enterprises with 20 or more workers can form a union and only if more than 50 percent of the workers request it. Only one union is allowed by enterprise or place of work and by category of worker, blue or white collar. In the public sector, twenty percent of the workers can request a union thus allowing, in theory, up to five unions to represent the workers. Among the restrictions applying to public sector unions are a one-year term for the leadership and their non-reelection to any leadership position. Collective bargaining is guaranteed under the constitution. There are restrictions on what can be bargained. In the public sector, for example, only working conditions can be bargained as long as the changes do not imply expenses greater than what have been already budgeted. In the private sector, collective bargaining can cover working conditions and pay.

c. Prohibition of Forced or Compulsory Labor

The constitution prohibits compulsory labor and exile and these provisions are respected in practice. There have been a few reports of escapees from forced labor camps run by Sendero Luminoso in the jungle. Peasants are recruited forcibly to tend the fields and add to the Sendero columns. After a recent incident in Atalaya, Cusco department, an official delegation from the Labor Ministry went to investigate.

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According to the official version, the enslaved Indians had gone back into the jungle.

d. Minimum Age for the Employment of Children

Peruvian law prohibits the employment of children under 14 years of age. In the formal sector of the economy, it allows for the employment of older children in some jobs, for a limited period of time and working a curtailed workweek at full pay. These rules do not apply in the informal sector. According to a recent Senate report 1.1 million children 6-14 years old work. Unofficial sources estimate that about half a million children work in the Lima area alone. Of the relatively few accusations of labor exploitation of children, official authorities verified 38 in 1988. A recent month-long campaign undertaken by a leading Lima daily has increased public awareness of abuses in the employment of children.

e. Acceptable Conditions of Work

Workers have an eight-hour day and an official 48-hour week for men, and 45 for women. Retirement age for men is 60 and 55 for women. There are government standards for health and safety by industry but are rarely enforced either by the employer or the government which has no inspectors. In negotiating new contracts, public and private sector workers can bargain for additional payments because of hazardous working conditions. Many employers wait for a request from

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the workers to improve conditions. Accidents are common and usually there is no emphasis on prevention of accidents, although once they happen, employers make the proper compensation.

All workers are entitled to 30 days paid vacation. Those in the private sector have to work a minimum of 260 days (excluding 30 days sick leave) or forfeit their vacation. This regulation does not apply to the public sector. The minimum wage was increased recently by the government but it still lags behind inflation, further undermining the purchasing power of most Peruvian families.