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1999 Country Reports on Human Rights Practices

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PERU

Peru is a multiparty republic with a dominant executive branch that often uses its control of the legislature and the judiciary to the detriment of the democratic process. President Alberto Fujimori won a second 5-year term in 1995, at which time his party also won a controlling majority in the unicameral Congress. The Constitutional Tribunal has not functioned effectively since 1997, when Congress removed three of its members for opposing an interpretation of a law that permitted President Fujimori to run for a third consecutive term. On December 27, Fujimori announced his candidacy to seek another term; on December 31, the National Elections Board (JNE) rejected 18 challenges to his candidacy, ruling that he was eligible to run. The Constitution provides for an independent judiciary; however, in practice the judicial system is inefficient, often subject to corruption, and easily controlled by the executive branch.

The police and military share responsibility for internal security; the National Intelligence Service (SIN) also plays a role in anticrime efforts. The capture or death of several remaining terrorist leaders marked continuing progress in eliminating the once great threat posed by the Sendero Luminoso (Shining Path) and Tupac Amaru Revolutionary Movement (MRTA) terrorist groups. The Government further reduced the extent of its emergency zones, which cover about 6 percent of the country and 5 percent of the population. Within these zones, certain constitutional protections are suspended. In the rest of the country, civilian authorities generally maintain effective control of the security forces. Nevertheless, the security forces remained responsible for serious human rights abuses, although fewer than in the previous year.

The Government has implemented major economic reforms, transforming a heavily regulated economy into a dynamic, market-oriented one. The Government has eliminated controls on capital flows, prices, and trade. It has privatized most state enterprises but did not meet its target of selling those remaining by the end of 1999. Inflation remained in the single digits, and growth was expected to reach 3 percent, up from 0.3 percent in 1998. Per capita gross domestic product is estimated at \$2,500. Major exports include copper

and other minerals, fishmeal, and textiles. The unemployment rate is estimated at 9.5 percent; underemployment remains around 45 percent. More than one-half of the economically active population work in the informal sector. The poor constituted 50 percent of the population in 1997, and some 15 percent of the population live in extreme poverty.

The Government's human rights record was poor in several areas; abuses decreased in several areas, including abuses of the person, but serious problems remained, including protection of civil and political rights. The security forces were responsible for several extrajudicial killings and one disappearance. Security forces tortured, beat, and otherwise abused persons, and impunity remained a problem. Lack of accountability within the armed forces, particularly regarding counterterrorist operations, continued to be a problem. Overall prison conditions remained poor and were extremely harsh in maximum security facilities. Arbitrary arrest and detention, prolonged pretrial detention, lack of due process, and lengthy trial delays continued to be problems. The general inefficiency of the judicial system persisted, and it remained subject to executive influence. On July 8, the Government announced its withdrawal from the jurisdiction of the Inter-American Court of Human Rights after the Court determined that the Government had failed to provide due process in the case of four Chileans convicted by a military tribunal of treason. The Court ruled on September 28 that the Government could not withdraw without renouncing the American Convention on Human Rights, and the Government stated that it would not comply with future Inter-American Court decisions, although it did comply in several pending cases. The Government inhibits freedom of speech and of the press. Efforts to ensure a compliant, uncritical press continued; journalists faced increased harassment and intimidation and practiced a great degree of self-censorship. There are some limits on freedom of assembly and some limits on freedom of movement in the emergency zones. Questions remain about the openness and fairness of the electoral process. In November-December a team of pre-election observers from the National Democratic Institute for International Affairs and the Carter Center concluded that there were serious problems in the election environment, including the harassment of the press and intending candidates, inadequate opposition access to the media, and use of government resources to promote the current Government. The authorities at times hindered the operations of human rights monitors. Violence and discrimination against women were widespread. Violence against children and discrimination against the disabled, indigenous people, and racial and ethnic minorities remained problems. Labor advocates argue that labor laws and practices restrict collective bargaining rights. Child labor remained a serious problem.

The office of the Defender of the People, or Human Rights Ombudsman, opened several new offices throughout the country. The ad hoc Pardons Commission continued to take applications from individuals claiming to have been jailed unjustly for terrorism or treason. The newly created Terrorism Division of the Supreme Court traveled to Ayacucho and dismissed 158 longstanding arrest warrants on terrorism charges.

Police suspect that vigilante actions resulted in numerous beatings and other abuse, including the killing of at least one person.

Sendero Luminoso terrorists were responsible for killings, torture, and numerous other abuses. MRTA terrorists were responsible for several killings.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of politically motivated extrajudicial killings; however, there were five confirmed cases of extrajudicial killings.

In January guards in the Yanamilla prison in Ayacucho beat inmate Pablo Pascual Espinoza to death after they reportedly found him drinking an alcoholic beverage. The authorities brought charges against two guards, Marco Espinoza Rivera and Marcial Pirez Yopla, and tried them under the 1998 antitorture law. The court sentenced Espinoza to 12 years in prison and acquitted Pirez. The Supreme Court reviewed the cases and increased Espinoza's sentence to 15 years and ordered the lower court to undertake a judicial review of Pirez's case and sentence.

In February two army officers were involved in the shooting of Demetrio Esteban Valencia in the city of Aucayacu. Esteban and Rosas Diego Espiritu were reportedly drinking beer in a local establishment when two unidentified men dressed in black entered, one of whom had drawn a pistol. Esteban reportedly attempted to disarm the man carrying the pistol and was shot and killed by an army lieutenant from a Tingo Maria unit. An investigation of the army personnel involved found both army officers innocent of wrongdoing because they were defending themselves.

In September army lieutenant Edi Paredes Alegre allegedly shot and killed Juan Espinoza Rodriguez, who was returning late at night to his home in Pachitea, Huanuco. Espinoza's family filed a complaint of homicide to the Pachitea prosecutor, who brought formal charges against Paredes. By year's end, proceedings had begun against Paredes in a Pachitea court.

In November Tambo de Mora penitentiary inmate Esteban Minan Castro died after guards reportedly used tear gas to subdue him and put into solitary confinement after he had allegedly violated prison rules. Prison inmates told members of the Ombudsman's office that Minan had not committed any offenses and was healthy prior to being put into solitary quarters. The prison doctor testified that prison warden Alberto Gonzales Teves ordered him to send the body to a city hospital and to report that the inmate had been alive before leaving the prison. An NGO filed a formal complaint of torture and homicide against several prison officials, including Teves. By year's end, the case remained in the initial stage of investigation.

In April Teobaldo Jaime Palacios Sanchez, an 18-year-old military recruit, died after military personnel allegedly beat him. He was admitted to the hospital and diagnosed with an acute respiratory infection and died on April 21. According to family members, Palacios died from mistreatment after he tried to escape the military installation. In addition, the family claims that Palacios' corpse had hematomas on different parts of his body. With legal support from an NGO, the family requested that the Public Ministry conduct an investigation of the cause of his death. The Human Rights Ombudsman also heard the family's complaint, and military officials undertook an investigation and awarded financial compensation to the victim's family. At year's end, the investigation continued.

Human Rights Watch reported that nine soldiers and recruits died between January and April at military bases under unexplained or questionable circumstances (see Section 1.c.). Local human rights NGO's were unable to verify this information.

There continued to be reports that the security forces conscripted persons, using beatings and mistreatment that led in some cases to murder or suicide (see Section 1.f.).

For example, in March 19-year-old Juan Salazar Cayetano died as a result of possible medical neglect during his mandatory military service. After Salazar left the military in December 1998 and was diagnosed with abdominal cancer, he claimed that his military superiors ignored his complaints of severe pain and responded by frequently beating him in the stomach. According to the Ministry of Health, Salazar died of a lung tumor.

There continued to be a public perception that the armed forces operate with impunity in the war against terrorism.

There were also reports of unexplained deaths of persons who were in police custody. In April police detained Adan Tito Mariluz Dolores for drinking in public and fighting with Willian Inga Mendoza (also known as "Puma") in Tingo Maria. According to a police report, police held both men for approximately 4 hours, after which Tito fled the police station still handcuffed. He was found in a nearby riverbed 10 days later. An internal investigation against policemen Alferes Jose Chaves Core, Carlos Dias Calizaya, and Mario Coa Delgado recommended administrative disciplinary measures. Police have been unable to locate Willian Inga Mendoza to solicit his testimony. By year's end, the prosecutor had not completed his initial investigation of the incident.

In June National Police officials detained Mario Clemente Guillen Mendez in the city of Chinchá and held him in a local police station. When his wife arrived to inquire about the reason for her husband's arrest, police instructed her to return the next morning. When she did return, police informed her that her husband had confessed and hanged himself. Medical authorities from a nearby town performed an autopsy, concluding that the cause of death was asphyxiation. The autopsy also noted pancreatic hemorrhages. By year's end, the Chinchá criminal court had brought charges of torture against policemen Edwin Alfredo Saravia Torres, Marco Antonio Carrasco, and Julian de la Cruz Huyarote.

In July police detained Rony Machaca Flores in Juliaca, Puno, for reportedly insulting another citizen. National Police lieutenant Rolnád Bastidas ordered Machaca's detention for intent to commit murder. Later that evening police found Machaca dead in his cell after allegedly hanging himself. At year's end, the Human Rights Ombudsman's office and the National Prosecutor were reviewing the case.

In December police detained Jose Antonio Palacios Garcia in Ica for not carrying proper identification. Two hours later police found Palacios dead in his cell. Family members claim that the police informed them that Palacios killed himself. Police later stated that he died while trying to escape. After an initial police investigation, the provincial prosecutor filed formal charges against Jorge Luis Gallegos Cornejo for the crime of aggravated homicide. Several other officers were charged with abuse of authority related to the death. By year's end, Gallegos Cornejo had been detained and judicial proceedings against him had begun.

In August 1998 a court placed Felix Rojas Daza and Zozimo Campos Gamboa, the two police officers arrested for the 1998 extrajudicial killing of Willy Llerena Macedo, on 1-year's probation for failure to do their duty but acquitted them of Llerena's murder.

In January the police officer charged with the December 1998 death of Carlos Orrellano Mallqui asked to have his case transferred to the military justice system. The police in Coris, Aija province, Ancash, had detained Arrellano Mallqui on suspicion of theft. On December 11, 1998, the police took him to a local hospital; he had been shot in the head and suffered injuries consistent with having been beaten in the face, hands, knees, and testicles. Orrellano Mallqui died in the hospital 2 days later. On April 8, the provincial prosecutor asked for an extension to complete his investigation; by the end of the year, the Supreme Court had yet to decide whether the case should be held in civil or military courts.

No progress has been made in the investigation of the four soldiers suspected of robbing and killing Genaro Julca Bula and Alberto Aponte in 1998. In November the departmental court in Ayacucho acquitted policeman Raymundo Gutierrez Rivero, the defendant in the 1998 case of torture that led to the death of Lucas Huaman Cruz. Despite convincing evidence to the contrary, the court apparently accepted the defense's assertion that Huaman's family, rather than Gutierrez, had tortured and beaten him to death. Attorneys representing the Huaman family and the Attorney General's office petitioned to have the acquittal annulled and the case retried before the Supreme Court. By year's end, their request was still pending.

There were no developments in the case of Mariela Barreto, a military intelligence (SIE) agent whose dismembered and decapitated body was found in March 1997. The Human Rights Ombudsman's office interviewed former SIE agent Luisa Margarita Zanatta Muedas in 1998, but did not uncover additional evidence or take further action on the case since then. President Fujimori promised an exhaustive investigation into the matter in 1998, but neither the Public Ministry nor the police uncovered a motive or identified likely suspects.

In May published photographs appeared to show former Second Lieutenant Ricardo Telmo Hurtado Hurtado presiding at a public function in uniform with the rank of major. Hurtado commanded the army unit responsible for the 1985 Accomarca massacre, in which more than 60 persons were killed, many of them women and children. Although Hurtado admitted executing 25 to 30 peasants whom he believed were terrorists, the court ultimately convicted him only of "abuse of authority" and disobedience and acquitted all the other defendants. In 1993 the Supreme Military Council sentenced him to prison for 7 years for abuse of authority. Available evidence suggests that the army never officially dismissed Hurtado, despite the fact that the Military Code states that any conviction that entails a sentence of 2 or more years' imprisonment must result in the officer's immediate discharge. During the 8 years from the massacre to his final appeal in 1993, the army promoted Hurtado from second lieutenant to captain. Nonetheless, at year's end, the armed forces had not provided coherent answers regarding Hurtado's promotions or his standing in the army beyond maintaining that he was released from prison under the 1995 general amnesty.

Police suspect that vigilante action resulted in at least one killing. For example, in September the tortured and strangled body of Guillermo Coa Mansanilla was found in one

of Lima's poorer neighborhoods with a note that read, "This is what happens to rapists" (see Section 1.c.).

Sendero Luminoso terrorists killed 51 persons, including 34 civilians. According to information gathered by the Legal Defense Institute, the MRTA was responsible for nine deaths.

b. Disappearance

There was one report of a disappearance attributed to the security forces. On March 20, the police detained 19-year-old Walter Munarriz Escobar on questionable theft charges, took him into custody, and beat him at the Licay police station in Angaraes, Huancavelica. Munarriz was never seen again. In April the provisional prosecutor brought formal charges against and ordered the detention of National Police captain Roberto Gastiaboru Nakada, Ensin Claudio Gutierrez Valasquez, and Adolfo Angeles Ramos. The prosecutor subsequently charged policemen Gunter Cuaresma Ramos and Percey Salvatierra Laura. By year's end, Gastiaboru and Angeles reportedly remained in reclusion in the San Fermin penal facilities in Huancavelica. Gutierrez Velasquez was under orders to appear in court. A penal court was still considering a counter motion filed by the policemen who accused the magistrate of being partial against them.

In May the Government paid full compensation, as ordered by the Inter-American Court of Human Rights, to the family of Neira Alegria, who disappeared in 1986. At year's end, the Government still had not paid \$245,000 in compensation to the family of Ernesto Rafael Castillo Paez, who disappeared after the police forcibly detained him in 1990, despite the Court's 1997 ruling that the Government had violated Castillo Paez's right to life, liberty, and personal integrity. The Court also had ordered the Government to punish those responsible and to return the victim's remains to his family; however, the Government had not done either by year's end.

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

The Constitution and the law prohibit torture and inhuman or humiliating treatment; however, in practice torture and brutal treatment of detainees by the security forces continued to occur. The Human Rights Ombudsman and NGO's believe that torture and the brutal mistreatment of detainees by the security forces continue to be widespread. Torture most often takes place during the period immediately following arrest and in the emergency zones. The incidence of torture is high during police detention in part because families are prohibited from visiting suspects while they are held incommunicado, and attorneys have only limited access to them (see Section 1.d.).

Such abuse is particularly common in police cells operated by the National Counterterrorism Directorate (DINCOTE) and in detention facilities on military bases where terrorism and treason suspects normally are held. Psychological torture and abuse, which result from the harsh conditions in which detainees are held, are more characteristic of the prisons. In emergency zones, which cover about 6 percent of the country's territory and 5 percent of its population, certain constitutional protections are suspended.

The Human Rights Ombudsman and NGO's reported more than a dozen cases of aggravated torture by security forces.

In February Fabian Astete Fuente filed a complaint against police in the department of Tacna for allegedly detaining and beating him after intervening in an argument Astete was having with his wife. Local authorities dismissed his charges of abuse of authority against the police officers.

On March 5, police in Huamanga, Ayacucho, detained 16-year-old Huber Mendez Barzola while carrying out an antigang operation. Although detained on suspicion of terrorism, the police later charged him with illegal possession of a gun, a metal chain weapon, and belonging to a criminal gang. Mendez alleged that, once in the police station, he was stripped naked, beaten, and sodomized with the metal chain weapon. On March 18, a judge opened an investigation into the alleged torture and ordered the detention of policemen Oscar Italo Flores Montanez and Carlos Palacios Soto. The two officers were charged with committing torture. William Saenz, another police officer, was charged with violating the public trust. In November the court found Palacios Soto and Flores Montanez guilty of torture, sentenced them each to 6 years in prison and fined them about \$650 (2,000 soles). William Saenz was sentenced to 4 years in jail and fined about \$150 (500 soles). At year's end, the cases were before the Supreme Court for final review.

In March the National Police in Lima arrested and detained Pedro Tinta Vera on charges of aggravated terrorism. In his statement to the Human Rights Ombudsman's office, Tinta said that authorities had held him incommunicado for a month and tried to make him confess. Tinta accused policemen Domingo Arnaldo Gil, Guillermo Osorio, and Ricardo Loli of repeatedly beating him all over his body, hoisting him by his arms bound behind his back, and leaving his broken arm untreated for 10 days. In October the provincial prosecutor formally charged the three policemen with the crime of torture and a judge ordered their arrest. By year's end, the case had not concluded.

In April the parents of 18-year-old Antero Espinoza Alzamora filed a complaint that the police in the department of Piura had detained their son without judicial order and held him on arbitrary charges. The family alleged that police repeatedly beat and otherwise mistreated Espinoza. By year's end, the local prosecutor was still investigating these charges.

In June police in Huamachuco allegedly detained brothers Catalino Daga Ruiz and Bernardo Daga Ruiz on suspicion of robbery. The two men claim that police beat them and then took them to a cemetery and buried both of them up to their necks. The police then allegedly took the men back to the police station where they beat them again. By year's end both men filed a formal complaint of torture and illegal entry, and the case remained in pretrial proceedings.

Investigations and judicial proceedings on charges of torture or abuse of authority against members of the National Police continued in several the following cases: Jesus Natividad Roman Portocarrero, arrested in Piura in March; Mario Jimenez Roque, arrested in Pasco in April; Julio Armando Uribe, arrested in Moquergua in July; Moises Pacco Mayhua, arrested in Puno in August; and Victor Valle Cabello, detained in Pasco in September.

In December 1998, personnel from the Aguaytia Naval Base, located in the Amazon basin, detained and assaulted Miguel Andahua. After several days, they turned him over to police with a signed confession that he was a terrorist and a medical report attributing his numerous injuries to an automobile accident. In addition to severe beatings and

electric shocks, naval personnel allegedly sodomized Andahua repeatedly with a wooden baton. Police released Andahua and absolved him of any terrorist links. A special prosecutor charged several naval officials under the antitorture law. However, the court issued an arrest warrant against Julio Spencer Guido Davalos, on a much lesser charge of committing bodily harm. Notwithstanding the warrant, the Aguaytia Naval Base and naval authorities refused to cooperate with civil authorities and Guido remained at large. In October the Supreme Court ruled that the civil courts had jurisdiction. The authorities arrested Guido, charged him with violating the 1998 antitorture statute, and released him for the duration of the civil proceedings, which were still underway at year's end.

In addition to beatings, common methods of torture and other inhuman or degrading treatment included electric shock, water torture, asphyxiation, and the hanging of victims by a rope attached to hands tied behind the back, and, in the case of female detainees, rape. Common forms of psychological torture included sleep deprivation and death threats against both detainees and their families. Interrogators frequently blindfolded their victims during torture to prevent them from identifying their abusers. The Government did take action during the year to investigate and prosecute security force personnel charged with torture; however, impunity persisted to some degree. During the year several officers were charged under the 1998 antitorture law. However, of the several sentences handed down under the 1998 torture law, most have been overturned on appeal.

There were continued reports of beatings and mistreatment on army bases of youths who volunteered or were conscripted for military service (see Section 1.f.) For example, 18-year-old recruits Jaime Palacios Sanchez and Elvis Lopez Tuya were caught while trying to escape from Fort Coloma in Tumbes. A group of soldiers allegedly held them naked for 2 days and later beat them; Palacios Sanchez died as a result of the beating (see Section 1.a.).

In April Carlos Yauri began his military service in Tumbes and received a full medical clearance. However, in August an army medical examination indicated that Yauri was suffering from mental illness, even though he had originally been admitted to the base hospital for tuberculosis. Army medical personnel also reportedly failed to note that the recruit had suffered massive blows to the head. With the support of a local NGO, the Huaraz province prosecutor investigated and requested that the military prosecutor expedite an investigation into the case. At year's end, army officials had not acted on this request.

In November 1998, Julio Asencios Vargas, a military recruit serving in an army unit in Huaraz was allegedly beaten with a rifle butt and lost an eardrum. The army conducted an administrative investigation and found Sergeant Robert Figueroa Sarmiento guilty of aggravated assault. The army also provided a financial settlement to the victim.

The police used a water cannon and tear gas to disperse protesters in June (see Section 2.b.).

No progress was made in the case of the 1998 beating and torture of Pablo Waldir Cerron Gonzalez by policeman Elmer Perez Arnao. In October a penal court acquitted a policeman in the 1998 case of torture that led to the death of Lucas Huaman Cruz (see Section 1.a.). In the same month, the Supreme Court began a review of the case. In November the Supreme Court prosecutor filed a motion to nullify the Ayacucho court's

decision; at year's end, the Supreme Court had decided to hear arguments on the case.

In the 1997 case of Leonor La Rosa, a military intelligence officer who was beaten and tortured by four of her colleagues (and who now resides in Sweden), the Supreme Council of Military Justice awarded La Rosa approximately \$1,500 (5,250 soles) as an indemnity. La Rosa's attorney considered the amount seriously inadequate, since she is a paraplegic as a result of the torture. The Inter-American Court of Human Rights was reviewing La Rosa's case when the Government announced its withdrawal from the Court's jurisdiction (see Section 4). By year's end, it remained unclear whether the Government would comply with the Court's decision.

In response to terrorism in the 1980's and early 1990's, many communities organized self-defense committees. Terrorism is no longer a serious threat in most areas and self-defense committees seek to deter crime. Committees patrol their communities nightly and regularly apprehend criminals in the act. Committee members sometimes administer vigilante justice before turning the suspect over to police.

There continued to be credible reports that Sendero Luminoso was also responsible for acts of torture, including cases that resulted in death (see Section 1.a.).

Prison conditions continued to be poor and were extremely harsh in maximum security facilities, especially those operating at high altitudes. Low budgets, severe overcrowding, lack of sanitation, and poor nutrition and health care continued to be serious problems within the prison system. Prisoners were victimized routinely by both prison guards and fellow inmates. Corruption continued to be a serious problem among poorly paid prison guards, many of whom were implicated in sexual abuse, blackmail, extortion, narcotics and weapons sales, and the acceptance of bribes in exchange for favors that ranged from providing a mattress to arranging an escape. Since prison authorities do not supply adequate bedding and budget only about \$0.75 (2.5 soles) per prisoner per day for food, the families of prisoners typically must provide for these basic needs. In high-security prisons, female inmates are allowed to see their children only once a week. However, in prisons that house only common criminals, such as Lima's Chorrillos women's prison, children 3 years of age and younger live with their jailed mothers.

Overcrowding and inadequate infrastructure continued to hamper efforts to improve the living conditions of prison inmates. At Lima's Lurigancho men's prison, the country's largest, more than 6,000 prisoners live in a facility built for 1,500. Inmates have only intermittent access to running water; bathing facilities are inadequate; kitchen facilities are unhygienic; and prisoners sleep in hallways and common areas due to lack of cell space. Illegal drugs are abundant in many prisons, and tuberculosis and AIDS are reportedly at near-epidemic levels. Detainees held temporarily while awaiting arraignment at Lima's Palace of Justice are not allowed outside for fresh air and have restricted access to bathrooms.

In November the Human Rights Ombudsman published a report on prison conditions and administration, which highlighted many serious shortcomings, including a shortage of trained medical personnel, spotty legal representation for prisoners, and insufficient numbers of social workers. The Ombudsman's staff visited 44 of the country's 86 prisons, which account for 80 percent of the country's total prison population of approximately 28,000 inmates. The Government employs 50 lawyers to service the prison system; since

65 percent of the prisoners have been charged but not convicted, the penal system's legal resources fell far short of demand. The system employs 81 social workers and 84 psychologists, which the Ombudsman judged to be woefully inadequate. Medical staff for the entire penal system consisted of 44 doctors and 80 nurses. In 47 of the 86 prison facilities, there were no health care services; of the remaining facilities, 20 were staffed by doctors and nurses, 18 with only nurses, and 4 with only doctors. The Ombudsman noted that the operating philosophy in the prison system is one of punishment rather than rehabilitation. Roughly half of all prisoners performed some form of work, and only 28 percent participate in some kind of educational activity.

According to human rights monitors, the Challapalca prison in Tarata, Tacna, seriously violates international norms and standards, particularly with respect to its isolation and high altitude. Located at an altitude of about 14,000 feet, Challapalca's freezing temperatures and oxygen-thin air have unavoidably negative effects on prisoner health. Moreover, since the prison can be reached only after an all-night bus ride from the nearest population center, most families can visit their jailed relatives only rarely. Hospital care is 8 hours away by overland transportation. Face-to-face consultations by inmates with their attorneys are rare. To relieve some of the isolation, the International Committee of the Red Cross (ICRC), and to a lesser extent the Government, fund a monthly visit to Challapalca by families of its inmates. In 1998 the International Federation of Human Rights, as well as visiting members of the Inter-American Commission on Human Rights (IACHR) and the Ombudsman, called on the Government to shut down Challapalca.

There were a number of protests and hunger strikes in various prisons, including the high security prisons at the Callao Naval Station and Yanamayo. In September MRTA prisoners at Callao staged a hunger strike to protest their isolation; the strike lasted 30 days.

The Government permits prison visits by independent human rights monitors, including the ICRC. However, representatives of the Human Rights Ombudsman were not granted access to the military prisons (see Section 4). During the year, the ICRC performed 748 jail visits, interviewed 1,253 inmates, and visited seven prisoners in custody at the maximum security naval base facility in Callao every 2 months.

d. Arbitrary Arrest, Detention, or Exile

Arbitrary arrest and detention remain problems. The Constitution, Criminal Code, and antiterrorist statutes delineate the arrest and detention process. The Constitution requires a written judicial warrant for an arrest unless the perpetrator of a crime is caught in the act. However, the Organic Law of the National Police permits the police to detain a person for any investigative purpose. Although the authorities must arraign arrested persons within 24 hours, they often violate this requirement. In cases of terrorism, drug trafficking, or espionage, arraignment must take place within 30 days. Military authorities must turn over persons they detain to the civilian police within 24 hours; in remote areas of the country this must be accomplished as soon as practicable. However, the military often disregards this requirement.

The Government suspends certain constitutional protections in the emergency zones where, for example, security forces do not need an arrest warrant in order to detain a suspect. Police may detain terrorism and treason suspects for a maximum of 15 days, and

hold them incommunicado for the first 10 days. Treason suspects, who are handed over automatically to military jurisdiction, may be held incommunicado for an additional 30 days. The authorities prohibit families from visiting suspects being held incommunicado, and attorneys have access to them only during the preparation and giving of sworn statements to the prosecutor.

By year's end, the Government took action on the recommendations the Human Rights Ombudsman made in 1998 to resolve the cases of an estimated 5,228 individuals still subject to detention orders, many of whom were forced against their will to participate in terrorist activities during the internal conflict or were accused falsely of links with terrorist groups. A group from the special terrorism division of the Superior Court went to Ayacucho and dismissed 179 of the standing arrest warrants. In 1998 the Ombudsman had called on the Government to rescind all outstanding detention orders that were more than 5 years old and to cancel all orders that did not comply with legal specifications.

The Ombudsman also had asked that the ad hoc Pardons Commission be authorized to evaluate any remaining cases and to recommend that the President revoke those detention orders where insufficient evidence existed that the individuals in question either committed terrorist acts or were associated with terrorist groups. By year's end, 3,225 of the 3,878 persons accused of these crimes have applied for clemency, and 535 have received the Commission's recommendation for pardon. Since 1998 there have been 48 recommendations for new pardons pending before the President. During the year, he pardoned 23 persons convicted of terrorism, bringing the total of terrorism or treason convicts pardoned and released to 481 (see Section 1.e.) Detainees have the right to a prompt judicial determination of the legality of their detention and adjudication of habeas corpus petitions. However, according to human rights attorneys, judges continued to deny most requests for such hearings. In Lima and Callao, detainee petitions for habeas corpus are restricted severely, because under a 1998 executive branch decree issued as part of the war on crime, only 2 judges are able to hear such petitioners, instead of the 40 to 50 in previous years, thereby significantly delaying justice. Judges rarely allow the unconditional release of suspected terrorists, even if there is insufficient evidence to bring a case against them, despite 1993 amendments to antiterrorism laws that gave lower court and superior court judges the power to do so. As a result, accused terrorists sometimes must wait until their cases have been reviewed and dismissed by the Supreme Court before they are freed. This process can last more than a year.

As of November, figures from the National Penitentiary Institute (INPE) showed that 65 percent of a total prison population of 28,081 had been sentenced. Over 50 percent of the prison population remained in Lima; of these prisoners, 74 percent remained unsentenced. In 1998 the Catholic Bishops' Social Action Commission (CEAS) called for implementation of a system that would allow detainees to post bail, so that first-time offenders would not have to wait in jail for their trials. According to the INPE, the elapsed time between arrest and trial in civil, criminal, and terrorism cases averages between 26 and 36 months. Those tried by military courts on treason charges generally do not have to wait more than 40 days for their trial; however, since trial procedures in military courts are largely devoid of due process protections, the speed with which trials are concluded offers little benefit to the defendants involved. Once trials have concluded, prisoners continue to have to wait long periods before receiving copies of their sentences.

According to two human rights organizations, police routinely detain persons of African

descent on suspicion of having committed crimes, for no other reason than the color of their skin, and rarely act on complaints of crimes against blacks (see Section 5).

In November 1997, the authorities charged eight human rights lawyers with terrorism and treason for having defended Sendero Luminoso terrorists in military courts. This group included Sendero Luminoso founder Abimael Guzman's defense attorney Luis Ramon Landaure. The military courts absolved all eight defendants of treason and sent them to be tried for terrorism in the civilian courts. The authorities arrested them in May, but a court acquitted them in September of the terrorism charges.

The Constitution does not permit exile, and the Government respects this prohibition.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, in practice the judiciary is inefficient, subject to corruption, and easily controlled by the executive branch and the private sector. As a result, public confidence in the judiciary remains low. In 1993 the Government created an executive commission of the judicial branch and an executive commission of the Public Ministry for a 5-year period, ostensibly to carry out judicial reform. The commissions consist of individuals the President appointed, and who regularly rule in favor of the Government, compromising the independence of the judicial system. In December 1998, both commissions were extended until December 2000. The judicial reform process has produced some successes, including administrative, technical, and organizational improvements such as computerization of files and improved work areas for judges and magistrates. Reforms also established quicker and less expensive procedures and better salaries for judges. The new Extrajudicial Conciliation Law, which originally was to have made conciliation a mandatory first step in most civil cases by January 2000, is scheduled to make conciliation obligatory beginning January 14, 2001. Before that date, the executive could start the implementation of the law in Lima, Arequipa, and Trujillo.

However, little has been done to restore the judiciary's independence from the executive, and these administrative and procedural improvements have been overshadowed by the lack of a fully functioning Constitutional Tribunal; the curtailment of the authority of the National Judiciary Council to investigate, discipline, and remove judges; the continuing large number of provisional judges in the court system; and the transfer of jurisdiction of sensitive cases to courts more inclined to rule in the Government's favor.

Of the country's 1,686 civilian judges, only 20 to 30 percent have permanent appointments and have been selected independently. The remainder, including 21 of the 36 superior judges of the Supreme Court, have provisional or temporary status. Critics charge that, since these judges lack tenure, they are more susceptible to outside pressures. The Government's reliance on untenured, provisional, and temporary judges was demonstrated when the executive commission of the judicial branch created two specialized chambers of the Supreme Court. These chambers, staffed by provisional and temporary judges, assumed control over tax, customs, and narcotics crimes previously under the jurisdiction of the tenured judges of the Lima superior court. This enabled the Government to supervise closely such cases as that of Baruch Ivcher (see Section 2.d.), his family and associates, and of Jaime Mur (a fraud case dismissed in 1998) to ensure decisions favorable to the Government. Critics also point to occasions when judges or

prosecutors who ruled against the Government's interests have been transferred and replaced by new judges who immediately overruled the previous decisions (see Section 2.a.).

There is a three-tier court structure that consists of lower and superior courts and a Supreme Court of 33 judges. The Constitutional Tribunal rules on the constitutionality of congressional legislation and government actions; the National Judiciary Council tests, nominates, confirms, evaluates, and disciplines judges and prosecutors; and the Judicial Academy trains judges and prosecutors. The Government has in recent years taken action to limit the independence of the Constitutional Tribunal. By year's end, Congress still had not taken any steps to replace the three judges ousted from the Constitutional Tribunal after they voted against application of a law allowing President Fujimori a third term. This effectively paralyzed the court's ability to rule on any constitutional issues for lack of a quorum (see Section 3).

The justice system generally is based on the Napoleonic Code. In civilian courts criminal cases move through three distinct phases. First, in a lower court a Public Ministry prosecutor investigates cases and submits an opinion to the examining judge, who determines whether there is sufficient evidence to issue an indictment. If there is, the judge conducts all necessary investigations and prepares and delivers a case report to the superior court prosecutor. Second, the superior court prosecutor reviews the lower court decision to determine if formal charges should be brought and renders an advisory opinion to another superior court, where a three-judge panel holds an oral trial. All criminal case convictions in civilian courts must proceed to a third phase, where the Supreme Court hears appeals and confirms or rejects the previous sentences. All defendants have the right to be present at their trial. Defendants also have the right to counsel. However, a public defender system exists in name only; the judicial system often fails to provide indigent defendants with qualified attorneys.

Under the military justice system, judges in the lower courts have the power to sentence and are required to pass judgment within 10 days of a trial's opening. Defendants may then appeal their sentences to the Superior Military Council, which has 10 days to make its decision. A final appeal may be made to the Supreme Council of Military Justice, which must issue its ruling within 5 days. At the superior military council and supreme council levels, a significant number of judges are active-duty line officers with little or no professional legal training.

Human rights groups and legal experts strongly criticize the power of the military courts to try civilians in cases of treason or aggravated terrorism and the powerlessness of the civilian judicial system to review military court decisions. In 1997 Gustavo Adolfo Cesti Hurtado, an insurance broker who had retired from military service 13 years earlier, was arrested, prosecuted, convicted, and sentenced to prison by the military justice system in a complicated case involving, in part, alleged insurance fraud in a military purchase of helicopters. When a civilian court approved a habeas corpus petition and ordered the military court to release Cesti, the military jurisdiction not only refused to do so but also charged the civilian judges with usurpation of power and sought to have them reassigned. The case was brought before the Inter-American Court of Human Rights, which rejected a government motion to dismiss it, and ruled in September that the Government had violated the American Convention on Human Rights and ordered that the habeas corpus petition be honored and that the reparations stage be initiated in order to compensate the

victim. In November the authorities released Cesti from military prison; however, at year's end, Cesti's legal status remained unresolved, pending a request from the Government to the Inter-American Court for further clarification of its ruling.

In 1998 President Fujimori issued a series of decrees that classified acts of extreme violence such as criminal gang activity, homicide, kidnaping, and the use of explosives as aggravated terrorism, to be tried automatically by the military courts in accelerated proceedings with possible maximum penalties of life imprisonment. The Government also created the National Intelligence Directorate for Social Peace and Safety, which increased further the anticrime role of the National Intelligence Service.

While simple terrorism cases are tried in civilian courts, cases of aggravated terrorism and treason are tried only before military courts. Human rights groups and legal experts also charge that the vaguely worded definitions of certain crimes in the antiterrorism statutes often lead military judges to issue sentences disproportionate to the crimes committed. Moreover, defendants in treason cases who are found not guilty by a military court may be remanded to a civilian court for a second trial on terrorism charges based on the same facts. In December the Congress passed legislation which classified cases of aggravated terrorism as "special terrorism" and assigned jurisdiction over such crimes to the civilian courts. Additionally, in the case of American citizen Lori Berenson, who was tried by a military tribunal without due process rights that would have been afforded her in a civilian court, the Prime Minister indicated in a December 14 television interview that the Government had not foreclosed the possibility of a civilian trial if it were warranted by previously unconsidered evidence.

Proceedings in these military courts--and those for terrorism in civilian courts--do not meet internationally accepted standards of openness, fairness, and due process. Military courts hold treason trials in secret, although such secrecy is not legally required. Defense attorneys in treason trials are not permitted adequate access to the files containing the State's evidence against their clients, nor are they allowed to question police or military witnesses either before or during the trial. Some military judges have sentenced defendants without even having notified their lawyers that the trials had begun. Since 1992 military courts tried 1,897 persons charged with treason or aggravated terrorism. Of these cases, the courts handed down 409 life sentences, imposed 1,032 sentences between 10 and 35 years in prison, remitted 408 cases to civilian courts for trial on terrorism charges, and absolved 48 persons. Since May 1998, the military courts tried 283 civilians for violent crime classified under a 1998 law as aggravated terrorism. Of these, the courts imposed 66 life sentences, remitted 62 cases to civilian courts, and absolved 20 persons; the remainder received sentences from 6 to 25 years in prison.

In July the military captured Sendero Luminoso leader Oscar Ramirez Durand (also known as "Feliciano") and tried him in secrecy in August at the Callao Naval Prison on charges of aggravated terrorism. On November 18, the court sentenced him to life in prison.

The Constitutional Tribunal remains unable to rule on the constitutionality of legislation and government actions for lack of a quorum, since the 1997 impeachment and conviction of three justices who voted against the application of a law that allowed President Fujimori to run for a third term in office. The Government ignored an IACHR recommendation that the three justices be reinstated. The case is pending before the Inter-

American Court of Human Rights, although the Government's unilateral withdrawal from the Court's "contentious jurisdiction" (i.e., when a member government accepts its rulings as mandatory) raises questions as to whether it would comply with an adverse ruling.

The National Judiciary Council (NJC), established by the 1993 Constitution has lost many of its original functions. A March 1998 law transferred the power to investigate and dismiss Supreme Court judges and prosecutors from the formerly independent NJC to the executive commissions of the judicial branch and the Public Ministry, respectively, both of which are controlled by strong allies of President Fujimori. Critics point to this action as a further example of executive branch control of the judiciary. A September 1998 law partially restored the NJC's powers, while leaving the Public Ministry in charge of determining whom the NJC could investigate. In June the President of the NJC resigned over differences with his colleagues after he argued for a more active NJC role. His resignation also protested the Government's unilateral withdrawal from the Inter-American Court's contentious jurisdiction.

The NJC also has the power to nominate new judges and magistrates. However, it is unable to fulfill this mandate until the first class graduates from the new National Judicial Academy in July 2000. The Academy continued its in-service training program for judges and magistrates, which consists of a few hours of classes each week during the first year, and practical training during the second. The Academy's training program, originally scheduled to last 6 months but later extended to 2 years, was strongly criticized as further prolonging reliance on provisional and temporary officials.

On June 1, the Inter-American Court of Human Rights ruled against the Government in the case of four Chileans who were convicted of treason by a military tribunal and sentenced to life in prison. The Court found that the military had denied the defendants' due process provided for under the American Convention on Human Rights. The Court ruled that a civilian court should have had jurisdiction; that military authorities held the suspects too long in pretrial detention; and that defense attorneys lacked access to witnesses and evidence and did not have sufficient time to review the case. The Court directed the Government to provide the four with new, civilian trials.

Immediately following the Court's decision, the executive branch announced that it would not comply with the ruling and made clear its intention not to hold new trials for the Chilean defendants. Subsequently, the Supreme Court delegated to the Supreme Military Council the final decision regarding enforcement of the Court's decision. The Council ruled that it could not grant the Chileans new civilian trials because laws passed after signing the Convention required military trials in cases of treason and aggravated terrorism. President Fujimori and his Cabinet promptly endorsed the Council's decision not to comply with the Court decision. Despite protests from the opposition and the legal and human rights communities in July, the Congress passed a law that called for the Government's immediate withdrawal from the Court's contentious jurisdiction.

On September 28, the Court ruled that the Government could not withdraw immediately from the Court's contentious jurisdiction, and stated that it would continue to process pending cases. The Government responded that it considered itself outside the Court's contentious jurisdiction. Public and official statements by government officials raised questions regarding the extent to which the Government would comply with pending and future Inter-American Court decisions. This decision effectively restricted citizens'

constitutional rights to seek redress in the hemisphere's preeminent international tribunal.

In the civilian jurisdiction, a specialized terrorism division of the Superior Court began trying cases in 1998. The division is based in Lima, but its judges travel to the provinces as needed. During the year, judges from this court traveled to Ayacucho to hear the cases of 158 individuals with old warrants outstanding for terrorism charges. Of these, judges found 24 persons innocent and ordered the suspension of all 158 warrants. In December 21 additional individuals with old warrants were also found innocent by this specialized Superior Court, bringing the total to 179 warrants dismissed. Human rights NGO's and the Human Rights Ombudsman noted that this action addressed the concerns of those who considered themselves innocent but feared coming forward for an abbreviated and unfair trial. However, over 5,000 warrants still remain in effect.

In 1996 Congress established the ad hoc Pardons Commission, which consisted of the Human Rights Ombudsman as chairman, the Minister of Justice, and President Fujimori's representative, Father Hubert Lanssiers. The Commission's mandate was to consider applications of those who believed themselves to be unjustly accused of terrorism or treason. At year's end, 3,056 of a total of 3,878 persons accused of these crimes had applied for clemency, and 535 had received the Commission's recommendation for pardon. The Commission terminated its activities on December 31; on December 15 the President signed a law assigning the Commission's functions to the Justice Ministry's National Human Rights Council.

Of the 48 recommendations for new pardons that have been pending before President Fujimori since 1998, 11 received pardons in December. During the year, he pardoned 7 detainees, bringing the total of terrorism or treason convicts pardoned and released to 481. Of this total, military courts had convicted 23 persons of terrorism; civilian courts convicted the remaining 458. Human rights organizations independently brought the cases of prisoners they believed to have been charged wrongly with terrorism or treason to the courts. The courts declared innocent and freed some 414 prisoners, bringing the total of all prisoners incarcerated and either pardoned or exonerated to 2,295.

In May the Human Rights Ombudsman recommended legislation for monetary compensation of innocent persons released through the Pardon Commission's program. At year's end, the Congressional Committee on Justice was evaluating this proposal but had not issued its recommendations.

There were no reports of political prisoners. Sendero Luminoso and MRTA members charged with terrorism are not considered to be political prisoners.

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

The Constitution requires security forces to have a written judicial warrant to enter a private dwelling; however, this requirement is suspended in the emergency zones, where security forces routinely conduct searches without warrants.

The Human Rights Ombudsman and human rights NGO's continued to receive complaints about incidents of forced conscription of young men, including minors, by security forces as part of the constitutionally mandated system of compulsory 2-year military service, although the number declined from last year. There continued to be reports of beatings,

mistreatment, and severe injury leading in some cases to murder or suicide (see Section 1.a. and 1.b.). In a country where well-placed contacts and even bribes were used by middle-class families in order to avoid military service, forced conscription tended to target uneducated youth in remote areas. Although the Ombudsman repeatedly has raised the issue with the military authorities, they continue to deny that forced conscription is an official policy. The Human Rights Ombudsman established a nationwide, toll-free telephone line for use by any citizen who may have been recruited forcibly or wished to report such an incident. Despite November 1998 legislation reiterating the prohibition against forced recruitment, there were 106 cases of forced conscription reported during 1999. Of these 106 cases, 75 percent resulted from the military's improper application of conscription laws to young men who presented themselves voluntarily for military service and should not have been assigned to military units because they had either not completed high school or were not yet 18-year-olds. Roughly 25 percent of the complaints received involved allegations of forced conscription, which occurred principally in Ayacucho and Huancayo. The Ombudsman intervened in 95 percent of such cases.

In September President Fujimori signed a law that makes military service voluntary and prohibits the practice of forced conscription, although registration remains obligatory. Among other provisions, the law limits the training period to 30 days and forgives penalties against those who have not complied with the mandatory service. Under certain circumstances the President may decree the reestablishment of mandatory service. These provisions of the law go into effect in January 2000. The Office of the Human Rights Ombudsman plans to monitor implementation to ensure that the military adheres to the law, since past efforts to prohibit forced conscription did not prevent it.

The Constitution provides citizens with the right to private communication, but the media, politicians, some government officials, and private individuals continued to report that the Government violated this right. In April 1998, representatives of the Ombudsman's Office traveled abroad to interview former military intelligence agent Luisa Margarita Zanatta Muedas, who had fled the country in 1998, after allegedly providing information regarding SIE wiretapping operations. They recommended that President Fujimori pardon Zanatta; that the Public Ministry investigate the wiretapping; and that Congress broaden the investigation conducted by its committee on defense. By year's end, the Government had not acted on these recommendations.

In November the IACHR heard the wiretapping case filed by opposition Congresswoman Anel Townsend and 13 journalists. They charged that the Government had violated their constitutional right to privacy and sought civil damages. The Constitutional Tribunal dismissed the charges in 1998. Having exhausted their domestic resources, the journalists took their case to the IACHR. By year's end, the IACHR had not yet reported on the matter. The Congressional Committee on Defense, Intelligence, and Internal Order, chaired by one of President Fujimori's loyalists, conducted a summary investigation of the charges. The investigation not only exonerated the intelligence services and security forces, but concluded that the aggrieved journalists had wiretapped themselves and recommended that they be charged with having fabricated and disseminated false information that tainted the honor of the military.

Opposition politicians reported credible incidents of wiretapping and surveillance. Although high-level government officials denied government involvement in any of these incidents, there was little effort to investigate the allegations. On December 5, opposition

presidential candidate Luis Castaneda Lossio called a press conference to describe his capture and detention of David Pinedo Torres, whom he alleged had admitting being a SIN agent under orders to conduct surveillance of Castaneda. However, Pinedo denied Castaneda's account and charged that Castaneda had kidnaped him and interfered with Pinedo's performance of his official duties as a policeman.

Reports of forced conscription by the MRTA (most of whose surviving members are jailed) and the greatly weakened Sendero Luminoso terrorist groups diminished significantly. However, Sendero Luminoso continued to coerce indigenous people to join its ranks (see Section 5).

In August the Human Rights Ombudsman updated its 1998 report on forced or coerced sterilization of women in public hospitals and family planning clinics. Allegations first arose in October 1997 that a number of health workers in public hospitals and family planning clinics had induced female patients to opt for sterilization by promising them food or another type of good or service or by not providing them with complete information about available alternatives. The Ombudsman recommended that all clients of family planning programs be provided with complete information about all the alternatives available to them, that no client be pressured into using any particular contraceptive method, and that if sterilization were chosen, the patient be afforded a 72-hour waiting period during which to consider that option, prior to a final decision. The Ministry of Health accepted the Ombudsman's report and already has implemented many of his recommendations. Since only 10,000 men have been sterilized under the Ministry of Health's family planning program, compared with 130,000 women, the Ombudsman recommended that the Ministry integrate men fully into its family planning program, thereby disseminating reproductive and contraceptive information more equitably across gender boundaries. During the year, the Ombudsman's office received 23 additional complaints of abuses committed by family planning personal, raising the overall total to 177 between June 1997 and December 1999. The Ombudsman's office continues to investigate these cases.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press; however, in practice, the Government inhibits the full exercise of these freedoms. The broadcast media and portions of the print media continued to practice a great degree of self-censorship in order to avoid provoking government retribution. Many in the press regard the Fujimori administration's harassment of the media as a key tactic for winning the President's reelection in April 2000.

While the press represents a wide spectrum of opinion, ranging from left-leaning opposition views to those favoring the Government, the 1997 loss by television owner Baruch Ivcher of his station, the 1998 dismissal of antigovernment journalist Cesar Hildebrandt, and the 1999 closing of the financially stricken opposition daily tabloid Referendum demonstrate the limits of press freedom.

In the greater Lima area alone, there are 22 daily newspapers, 9 television stations, 65 radio stations, and 3 news channels on 2 commercial cable systems. The Government

owns one daily newspaper, one television network, and two radio stations, none of which has a particularly large audience.

International press groups and the Organization of American States (OAS) reported press harassment and accused the Government's intelligence services of being responsible for some of it. In a statement issued on October 12, OAS Special Rapporteur for Freedom of Expression Santiago Canton discussed these accusations, criticized the use of judicial proceedings to harass journalists, and cited cases of death threats aimed at journalists. In January Freedom House classified Peru as "not free" in terms of press freedom, and ranked Peru as the worst country in Latin America for press freedom apart from Cuba. The Committee to Protect Journalists named President Fujimori one of the world's "Top Ten Enemies of the Press."

Tensions continued during the year between the Government and the segment of the media that was very critical of certain government policies and actions, and whose investigative reporting has generated wide public criticism of alleged government wrongdoing. Government intelligence agents allegedly continued to orchestrate a campaign of spurious attacks by the tabloid press against the political opposition and independent journalists and newspapers. The six tabloids that carried such attacks had almost identical headlines and text, and the text also appeared on the Internet, making it appear as though a single entity were orchestrating the entire campaign of intimidation and defamation. In October a group of journalists and other workers from the yellow press tabloid "El Chato" resigned from the jobs alleging they had not received their salaries. In addition, they claimed that the paper's owner, Rafael Documet, had received payments of \$6,000 per day over the last 10 months from Augusto Bresani, a public relations advisor who allegedly works for the government, to print headlines critical of opposition candidates and government critics. Among others, targets of the tabloid press include journalists Gustavo Mohme, Angel Paez, and Fernando Rospigliosi. Many investigative reporters admit that they or their editors held back stories critical of the Government to avoid the risk of retaliation. In addition, investigative reporters and their families were targets of telephoned death threats and other harassment.

According to the NGO Transparencia, the Government spent \$62.6 million on advertising, making it the country's largest advertiser by a large margin. The Ministry of the Presidency spent \$24.5 million on advertising, or 31 percent of the total. Of the total amount, 75 percent of the funds were spent on television ads. Most television stations are heavily in debt, and low economic growth greatly reduced revenue from advertising purchased by commercial clients. The resulting economic dependence leaves them susceptible to government pressure. Most media observers agree that the broadcast media (with the prominent exception of one cable news channel), on which most citizens rely for news, refrained from any critical reporting on the Government during the year.

According to several credible NGO's, television stations slanted their views and coverage in favor of President Fujimori at the expense of other presidential pre-candidates. One opposition candidate claimed that three private television stations refused to broadcast one of his paid political advertisements. Television station representatives subsequently replied that their station do not have a policy against selling television airtime to opposition candidates, but they cannot be expected to displace prime time programming to run 5- to 10-minute political advertisements. Opposition party representatives then claimed that private television stations refused to run even 30-second advertisements. The

Government's electoral law does not explicitly regulate political advertising on privately owned television stations (see Section 3).

In December 1998, the privately owned Channel 13 canceled the public affairs program of antigovernment journalist Cesar Hildebrandt, and in August dropped its nightly newscast, which also had been frequently critical of the Government. In May journalist Nicholas Lucar resigned from Channel 4's popular Sunday public affairs program (Revista Dominical) after the station broadcast an interview with National Intelligence Service adviser Vladimiro Montesinos in which, according to Lucar, Montesinos dictated the questions and retaped his own answers. Channel 4 then canceled the program entirely. In related cases, Channel 13 reporter Rosana Cueva broadcast a tape of purported conversations in which Montesinos told Channel 4 executive Jose Francisco Crousillat how to report favorably on the Government. In both cases, journalists claimed that the Government had pressured the stations to slant their coverage, although the station owners denied it.

The opposition press alleged that the Government used financial pressure to force the opposition tabloid Referendum out of business on October 2 (Referendum's principal editors worked for Baruch Ivcher at Channel 2). According to the newspaper's editors, SUNAT, the tax authority, demanded that Referendum stop publishing in exchange for rescheduling the tax debt of its parent company. Referendum closed the day before it was to publish an article alleging the existence of a SIN plan to murder human rights lawyer Heriberto Benitez, and while it was investigating other stories critical of the Government. In November journalist Cesar Hildebrandt began publishing the staunch antigovernment daily newspaper Liberacion.

The campaign against Baruch Ivcher and his former Channel 2 employees also continued, although the Government reissued Ivcher a passport and the Prime Minister identified Ivcher as a Peruvian citizen in October. In June a judge sentenced former Channel 2 station manager Julio Sotelo to 4 years in prison for having signed a document transferring shares of the station from Ivcher to his daughters. In an April press conference, Ivcher presented supposedly secret documents from 1997 showing that the SIN and the SIE had planned harassment against the press. The daily newspaper La Republica later printed the text of the documents.

In April an organization calling itself the Association in Defense of Truth (APRODEV) launched an Internet web site that posts the tabloids' articles and additional dubious information about independent journalists and opposition figures. APRODEV's representative in Peru is Hector Ricardo Faisal, an Argentine citizen, and former military officer. In May 1998, the Argentine Government asked the Government to extradite Faisal, but the Supreme Court rejected the extradition request in June 1998. Journalists brought a case against APRODEV, claiming that its web site was libelous and asking the court to force APRODEV to close it. The judges initially assigned to the case issued preliminary rulings in favor of this request, but then were removed from the case. When a new judge was appointed to handle the case, he reversed the initial decisions and ruled that the APRODEV site was not libelous because it simply reprinted information authored and published by other sources. The journalists filed and lost an appeal of this ruling.

Independent press associations also alleged that journalists were subjected to harassment, including death threats. On August 25, several journalists, along with opposition

Congresswoman Anel Townsend, formed an association called Preense Libre (Free Press) to promote freedom of expression. Within 2 weeks of the association's founding, the Supreme Military Tribunal brought a case against it for allegedly using false documents to support a story on SIE actions to gather information on potential opposition presidential candidates. In November the Public Ministry opened an investigation of Prensa Libre journalist Guillermo Gonzales for his role in Prensa Libre's activities. Public Ministry officials questioned him but did not formally charge Gonzales or his colleagues. Also in November, the IACHR issued a statement cautioning the Government from further actions against journalists. By year's end, this case remained open, and the possibility of arrest and formal charges served as an implied threat against journalistic integrity.

According to the National Journalists Association (ANP) and the Institute of Journalism and Society's journalist protection system (La Red), there were many cases of media harassment in the provinces by government institutions (the National Police and the military), and by local political and commercial organizations. The ANP reported 127 cases of harassment in during the year--of these, 64 percent were in the provinces, 76 percent were violent, and 54 percent were directed at radio stations. In the same period, La Red received 101 reports of harassment, 98 of them from the provinces, where journalists have less support and visibility than in Lima. A total of 64 percent of the threats were against radio reporters, reflecting the influence of provincial radio stations.

Most of these incidents took the form of threats of violence, judicial proceedings, and charges of defamation, and came from local police, military officials, politicians, and businessmen. The incidents resulted in fines against journalists or media outlets, or in rulings to stop publishing or broadcasting. In one case, a judge sentenced the news director of Huancayo radio station Radio Senorial to 2 years' probation and forbade him from working as a journalist for 2 years for defamation after reporting the results of an audit that revealed management irregularities by two Huancayo city officials. In another case, a reporter for La Republica in the city of Jaen received death threats in September for having investigated and revealed the identity of a previously unknown member of the Colina group who participated in the 1997 La Cantuta murders of eight college students.

The Government respects academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the right of peaceful assembly, and the authorities generally respect this right in practice, except in the designated emergency zones where it is suspended. The law does not require a permit to organize a public demonstration, but the organizers have to inform the political authority (Prefecto) about the kind of demonstration and where the demonstration will take place. Permission may be denied only for reasons of public safety or health. Municipal authorities usually granted permission for demonstrations in all nonemergency zones.

There were five major protests over the year, but only three were conducted nationally. On April 28, over 3,000 protesters representing labor unions, student organizations, and opposition political parties demonstrated against Congress's removal of three Constitutional Tribunal judges (see Section 3). Over 100 police were deployed; they used a powerful water cannon and tear gas to disperse the marchers. The police briefly detained an undetermined number of protesters who were throwing rocks and attempting to destroy

private property.

In July labor groups and social groups held demonstrations in downtown Lima and in other major cities to protest various Government policies as well as President Fujimori's eligibility to seek reelection to a third term. Police were deployed but no violent confrontations or arrests were reported.

In December a group of about 2,000 students, labor representatives, and opposition party members marched in protest of President Fujimori's official announcement that he would seek a third term in office. Labor union organizers reported that progovernment groups shouted insults and threw objects at protesters who were facing off with riot police. Photographs of antigovernment protesters displayed them wielding large sticks, which protest organizers claimed they had taken up in self-defense in a standoff with riot police. Some pushing and shoving occurred, but the police commander's order to retreat prevented a larger confrontation. Protesters reportedly attempted, but failed, to gain access to a Government building.

In 1998 the Human Rights Ombudsman, acting in response to violent confrontations between protesters and the National Police, began a dialog between protest groups and police on basic rules of conduct. Monitors from the Ombudsman's office served as official observers to ensure adherence to these rules by police and protesters alike. The Ombudsman's office reported that these measures have reduced significantly tensions and the level of arbitrary arrests, while diminishing the risk of damage to public and private property. According to the Ombudsman, with some exceptions, groups were able to express their opinions publicly, while the National Police maintained order in a lawful manner.

The Constitution provides for freedom of association, and the authorities generally respect this right in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respects this right in practice. Although the Constitution establishes the separation of church and state, it also acknowledges the Catholic Church as "an important element in the historical, cultural, and moral development" of the nation. The preferential status accorded to Roman Catholicism in public life can be seen in the special treatment and tangible benefits the Church receives from the State, including remuneration to certain clergy and church personnel, and tax exemptions on clergy salaries and real estate holdings. Teaching about Roman Catholicism in primary and secondary schools is mandatory. Conversion to other religions is permitted, and missionaries are allowed to enter the country and proselytize.

This preferential treatment continued throughout the year. In September Congress passed legislation that required the military to hire only Catholic clergy and made Catholicism the only recognized religion of military personnel. Prior to 1977, religious courses in public and private primary and secondary schools were inter-denominational. Since 1977 public primary and secondary schools have offered only teaching about Catholicism, although some non-Catholic private schools provided non-Catholic religion courses.

In April 1998, the Government issued an executive order that established basic Catholic

religion courses for all public and private primary school students. Traditionally, school authorities appointed religious education teachers upon individual recommendations by the presiding bishop of the local diocese. In November the Education Ministry issued a directive to implement a September 1998 decree which made it mandatory for religion teachers to have the approval of the presiding bishop.

Although teaching about Roman Catholicism has not been required in the public school system since the education reforms of the 1970's, most schools devoted 1 hour a week to such study. School authorities appoint religious education teachers, upon individual recommendations by the presiding bishop of the local diocese. Parents who do not wish their children to participate in the prescribed religion classes must submit a written request for an exemption to the school principal. Non-Catholics who wish their children to receive a religious education in their own particular faith are usually free to organize such classes, during the weekly hour allotted by the school for religious education, but must supply their own teacher. The Freedom of Conscience Institute (PROLIBCO), a recently established NGO that favors the strict separation of church and state and opposes the preferential treatment accorded to the Catholic religion, opposes the requirement for Catholic teaching in the school curriculum and claims that the alternatives made available to non-Catholic parents violate the constitutional protection of the privacy and confidentiality of one's convictions and beliefs.

PROLIBCO and other religious groups have challenged mandatory teaching of Roman Catholicism, and their case is pending before the Constitutional Tribunal. The case alleges that the mandatory catechism requirement violates the rights of non-Catholic students to practice their personal religious convictions. They also have challenged the practice in which parents must ask school directors for permission to excuse their children from mandatory religion courses and then pay for their own teacher during the 1 hour per week of religious study. Apart from its pending court case, PROLIBCO has alleged discrimination against non-Catholic groups who must pay import duties and a sales tax on Bibles brought into the country.

Sendero Luminoso rejects religion and in the past has threatened and intimidated religious workers.

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

The Constitution provides for the right of free movement; however, this right is suspended in the emergency zones, which cover about 6 percent of the country's territory and where the security forces may detain travelers at any time. The military generally does not hinder travel in these zones; however, military commanders often limited the freedom of human rights monitors to investigate abuses in the emergency zones (see Section 4). Passengers on public transportation and drivers in private vehicles may be checked at control points throughout the country.

Although there are no political or legal constraints on foreign travel or emigration, the authorities legally can restrict persons with pending criminal and, in some cases, civil charges against them from leaving the country. Repatriates, both voluntary and involuntary, are not treated differently from other citizens.

The Constitution prohibits the revocation of citizenship. However, according to the Nationality Law of January 1996 naturalized Peruvians can lose their citizenship for, among other reasons, committing crimes against the State, national defense, and public security, as well as for reasons that "affect the public interest and the national interest." Critics believe that it was the Nationality Law that provided the Government with the legal basis for its 1997 invalidation of the citizenship through naturalization of Israeli-born Baruch Ivcher, who consequently lost control of his property, including the Channel 2 television station which had aired stories of government abuse (see Section 2.a.). However, the Government claimed that its decision was based upon irregularities in Ivcher's original naturalization petition 13 years earlier. Although the Government issued Ivcher a new Peruvian passport in October, private legal proceedings continued against him, his family, and former associates.

Sendero Luminoso occasionally interrupts the free movement of persons by setting up roadblocks in sections of the Upper Huallaga Valley.

Political violence in the 1980's and early 1990's resulted in the internal displacement of hundreds of thousands of persons from their original homes, and massive rural-to-urban migration. Most families migrated to Lima or to one of several other department capitals. This movement created problems which, for the most part, remain unsolved, despite the Government's and NGO's continued efforts to address them. The government-sponsored Program for the Repopulation and Development of Emergency Zones (PAR) estimates the total number of displaced persons at approximately 600,000; an NGO coalition estimates the total at approximately 450,000. Apart from the rural-to-urban migration, there was substantial rural-to-rural migration. At the same time, persons whose homes were destroyed and whose lives were disrupted resisted the encroachment of terrorist groups by forming civilian self-defense committees and thereby managed to remain in their home communities.

There is also a large population of indigenous Ashaninkas in the central jungle region who face a terrorist threat. In addition, oil exploration companies have in the past encroached upon their lands without consulting them (see Section 5).

With the decrease in terrorist violence since 1995, many displaced persons began to return to their rural homes. The PAR, which provides a number of basic services to accelerate returnee self-sufficiency, has assisted 18,000 persons to return and estimates that another 300,000 have returned on their own. NGO's differ on the total number of returnees and estimate generally that less than 100,000 have returned to their communities of origin. However, NGO's and the PAR agree that only 15 to 20 percent of returnees leave after resettling in their original communities, due to dissatisfaction with the arrangements that awaited them in their home communities. An even higher percentage of returnees have yet to reestablish themselves permanently and instead travel back and forth between their original and their displacement homes.

The PAR tends to concentrate on infrastructure development in the communities to which displaced persons are destined to return, building roads, bridges, utility lines, schools, health centers, and the like. The PAR also provides returnees with an initial supply of agricultural tools, seeds, food, medicines, blankets, and kitchen utensils. The NGO's, on the other hand, focus on the training of the returnees in self-advocacy and on the development of vocational skills. The PAR provides no direct financial assistance to those

displaced persons who chose not to return to their original communities.

According to the Ministry for the Promotion of Women and Human Development (PROMUDEH), since 1995 the PAR has supported the return of over 19,000 persons to repopulate 210 localities in the departments of Ayacucho, Huancavelica, and Junin. Since 1995 the Government has invested almost \$5.5 million to build 1,913 classrooms; \$1.3 million on health facilities; \$3.8 million on sanitation; \$6.6 million to build 12,000 residences; and \$2.6 million on local community facilities. The Government also spent \$900,000 on programs to educate and train women participating in the repopulation programs and provided 947 job training courses. Additionally, to provide documentation to displaced persons, the Government registered 764,907 persons since 1997, spending roughly \$7.3 million on its Registry of Provisional Identity Program.

A special problem related to the displaced persons is the lack of basic documentation, such as birth certificates and voter registration cards. The many displaced persons who lack birth certificates or other basic documentation to establish their identity and place of origin can register with a special office within the PAR. This office in turn provides applicants with documentation that can be used both to request PAR assistance to return to their communities of origin and to apply for a national identity card. The Government conducted a national registration drive throughout the country to provide displaced individuals with identity documents and to register them to vote in the April 2000 national elections.

Another unresolved problem is the question of the legal status of the approximately 5,000 displaced persons who also fall into the category of "requisitorizados"--persons who were forced to join terrorist groups or were falsely accused of associating with such groups and continue to have outstanding detention orders issued against them (see Sections 1.d. and 1.e.). Although there are insufficient judicial resources to deal with the caseload and many persons continue to have outstanding detention orders issued against them, the Government began to address this problem. During the year, a specialized terrorism division of the Superior Court heard the cases of 158 individuals in Cusco, found 24 innocent, and ordered the suspension of all 158 warrants. In December the court found innocent an additional 21 persons, bringing the total of dismissed warrants to 179. Most of these individuals speak only Quechua, a fact that increases their vulnerability and reduces even further their capacity for economic and social integration into urban areas.

Sendero Luminoso continued to coerce indigenous people to join its ranks during the year, which resulted in further internal displacement (see Section 5).

The law includes provision for granting refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees in granting asylum and refugee status and recognizes the Catholic Migration Commission as the official provider of technical assistance to refugees and applicants for asylum. The Commission also advises citizens who fear persecution at home and seek asylum abroad. The Government recognized 7 persons as new refugees: 5 Colombians, 1 Cuban, and 1 Bulgarian; there were a total of 758 refugees in the country. Refugees are allowed to live and work without restrictions and can apply for naturalization. The status of refugees is reviewed annually.

There were no reports of the forced return of persons to countries where they feared persecution.

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

The Constitution provides for the right of citizens to change their government, although the law bars groups that advocate the violent overthrow of the Government from participating in the political process. Voting is by secret ballot and mandatory for all citizens between the ages of 18 and 70. However, members of the armed forces and the police, as well as felons, are ineligible to vote.

The controversy over President Fujimori's eligibility to seek reelection continued throughout the year. The undermining of the Constitutional Tribunal by congressional action was particularly significant in setting the stage for Fujimori's run for a third term. As many as 1.4 million signatures were gathered in a petition drive for a referendum on whether or not the law permitting Fujimori to run for a third consecutive term should be repealed. However, the National Elections Board (JNE) ruled that according to a 1996 law, the referendum could be held only if 48 members of Congress favored it, thereby reversing its earlier decision permitting the signature drive to proceed without congressional approval. In August 1998, the referendum effectively was killed when only 45 members voted for it. Thus the right to a referendum, which is established in the Constitution, was abrogated by JNE and legislative action with no opportunity for judicial review.

The Constitution stipulates that the President can be elected to a term of 5 years, and that he or she may be reelected for one additional successive term. On December 27, President Fujimori announced his candidacy for a third term in 2000; on December 31, the JNE dismissed on technical grounds 18 objections by opposition figures, political parties, and other civic groups who argued that a third term would be unconstitutional. In December the Human Rights Ombudsman stated publicly that the JNE's decision did not correspond to constitutional law, but because the Constitution vested the JNE with the final decision on electoral matters, citizens had to respect the JNE's decision as representing the final legal recourse.

In accordance with the 1993 Constitution, President Fujimori ran for a second 5-year term in 1995 and was reelected over 12 other candidates, receiving 65 percent of the vote. Voters also elected the 120 members of the unicameral Congress under a proportional representation system; at year's end 72 seats were held by members of Fujimori's Cambio 90/Nueva Mayoria with allied political movements, and the remaining 48 members representing 11 parties. Under the 1997 Elections Law, each of the participating political parties must prepare a list of ranked candidates from which the 120 members of the unicameral legislature are elected by direct ballot.

Challenges to the constitutionality of a third successive term rested largely on a series of controversial actions taken by the executive controlled Congress. In 1996 the congressional majority, addressing the constitutional provision limiting presidents to no more than two consecutive terms in office, passed a law (The Law of Authentic Interpretation) interpreting President Fujimori's 1995 victory as his first under the new Constitution, thereby opening the way for him to run for a third consecutive term in 2000.

The Administration and Congress' attempt to permit Fujimori to seek a third term created a constitutional crisis. In 1997 Congress voted to remove three members of the Constitutional Tribunal who voted against the application of the Law of Authentic Interpretation to Fujimori, and the Tribunal effectively ceased to function, unable to rule on any constitutional issues for lack of a quorum (see Section 1.e.). The three members of the Constitutional Tribunal filed a complaint with the IACHR, which the Commission found admissible. In 1998 the Commission called on the Government to reinstate the three judges on the Tribunal and formally gave the Government 60 days in which to comply with its recommendations.

Several legal actions undertaken by certain courts and by Congress affected the candidacies and campaigns of potential presidential contenders. On August 6, Congress passed a law prohibiting candidacies for certain offices such as president or congress of anyone who had served in high office and had been charged with a crime against the State. In effect this law presumes the guilt of anyone charged but not convicted of a crime and removes the right to compete for office.

In 1997 Congress appointed a subcommittee to investigate infiltration by the intelligence service of the voter registration agency, incompetence in contract administration, and massive embezzlement of funds. When the subcommittee produced a critical report in 1998, the Director of the National Voter Registration Bureau and a number of his senior staff fled the country. There were no reports of SIN infiltration of electoral institutions during the year.

There were numerous allegations of government-linked harassment of potential opposition presidential candidates in August and September. On August 25, members of the Prensa Libre presented documents purporting to show involvement by the SIN in a press campaign defaming presidential candidates Alberto Andrade and Luis Castaneda (see Section 2.a.). The Director of Military Intelligence (DINTE) requested that the Military Supreme Council initiate an investigation, and the Council concluded that the journalists' documents had misrepresented material facts. The prosecutor also concluded that the journalists were responsible for crimes against the public and ordered the JNE and the Public Ministry to investigate the journalists on these charges. At year's end, the Public Ministry's investigation remained open.

Lima Mayor and Somos Peru ("We are Peru") party leader Alberto Andrade filed a complaint in August against six local daily tabloid newspapers on the grounds that they had conducted for several months a systematic defamation campaign against him. Andrade requested a judicial investigation. The courts remanded the case to the Public Ministry and ordered the district prosecutor's office to proceed with an investigation. However, the owners of the six dailies petitioned the Superior Public Law Court and won an injunction blocking the investigation. The court further prohibited Andrade's attorney from continuing any legal action.

In December SUNAT, the national tax collection agency, reportedly conducted an audit of pre-presidential candidate Andrade's Lima-based business; government spokesmen asserted that the audit was routine.

On December 5, Solidarity National Party leader Luis Castaneda Lossio announced a "citizens arrest" of a National Police member who was allegedly surveilling him and his

family on behalf of the SIN. Castaneda turned the man over to police and filed a harassment charge. Denying the policeman was an intelligence agent surveilling the presidential candidate, the National Police filed a formal complaint against Castaneda for kidnapping and interference with the policeman's official duties. Both sides subsequently dropped their formal complaints.

On December 13, Prensa Libre published documents purporting to show that an alleged SIN agent, Corina Manyari, had infiltrated Castaneda Lossio's National Solidarity Party to spy on his campaign. Manyari told reporters she had joined Castaneda Lossio's campaign in 1999 as the head of youth activities and had left in September after being sexually harassed by a party director. On December 14, President Fujimori told the press that the government would oppose any infiltration of opposition parties, and he pledged to investigate allegations of these types of activities. By year's end, the Government had not indicated whether it would undertake an investigation.

Opposition members claimed difficulties in buying airtime from privately owned television stations. According to Transparencia, television stations slanted their views and coverage in favor of President Fujimori at the expense of other pre-presidential candidates. One opposition candidate claimed that three private television stations refused to broadcast one of his paid political advertisements. The electoral law does not regulate political advertising on privately owned television stations (see Section 2.a.).

In December a seven-member delegation from the National Democratic Institute for International Affairs and the Carter Center reported "serious flaws" in the country's preelectoral environment. The delegation observed that political parties and candidates continued to actively organize, although the opposition parties continued to emphasize their participation was not an acceptance of the process as fair or legitimate, especially regarding the constitutionality of President Fujimori's reelection bid. The mission found that credible nonpartisan domestic election observations were underway. It identified as problems the constitutional interpretation regarding standing for reelection; violations of press freedoms; use of state resources for electoral advantage; and declining public confidence in the electoral process. The delegation also called on the Government to return to the Inter-American Court and to fill the vacancies on the Constitutional Tribunal.

The Constitution establishes three bodies to administer elections: the National Board of Elections; the Office of Electoral Processes (ONPE); and the National Registry of Identification and Civil Affairs (RENIEC). The JNE sets the legal parameters and rules on election-related disputes and challenges. The ONPE administers the elections, and the RENIEC issues election identity documents.

Women and some minorities participate actively in government and politics, although they are underrepresented. There are 13 women in the 120-seat Congress. One of 15 cabinet ministers and several vice ministers are women, as are 3 of the 33 judges of the Supreme Court. The 1998 municipal elections were held under a new law that mandated that all party candidate lists for congressional and municipal elections include at least 25 percent of each sex. Under these guidelines, women were elected to 24 percent of municipal offices, up from 8 percent in 1998. In conjunction with the 2000 election campaign, four women's organizations undertook nationwide programs to identify female candidates and promote women's interests, increase the number of female voters, prepare a woman's political agenda, and train women who were elected to office.

Citizens of Asian descent hold numerous leadership positions in government; President Fujimori is of Japanese descent and a recent president of the Council of Ministers was of Chinese descent. Several members of Congress have mixed ancestry, and a recent Vice President was a Quechua speaker, as was a recent Minister of Transportation and Communications. However, it is rare for indigenous people, who make up more than one-third of the population, to reach the highest leadership ranks in the public sector. The Afro-Peruvian minority, unofficially estimated at 3 to 5 percent of the total population, is not represented at all in the leadership of any branch of the Government.

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

In general, the Government permitted numerous NGO's dedicated to monitoring and advancing human rights to operate freely. The ICRC is usually able to visit prisoners, including those held for terrorism-related offenses at the maximum security Naval Prison at Callao.

Military commanders often did not grant access to local and international human rights monitors to investigate abuses in the emergency zones and on military bases. Early in the year, officials from the Ombudsman's office were not granted access to the Sixth Region military compound.

Government, military, judicial, and police officials, as well as some members of Congress, publicly accused NGO's and the IACHR of being overprotective of criminals and terrorists to the detriment of their victims. There was one report of Government surveillance of an NGO's office. Dialog between the NGO human rights community and civilian authorities improved slightly, although communication between the human rights community (both official and nongovernmental) and the military ranged from strained to nonexistent.

Most human rights NGO's are independent, thorough, and generally objective. The National Coordinator for Human Rights (Coordinadora), established in 1985, provides an umbrella organization for 60 human rights NGO's. The Coordinadora does not politicize its positions on human rights issues, although its constituent members may do so in their own names. A number of other human rights groups associated with the Catholic Church or with government institutions operate on the fringes of the Coordinadora.

The Office of the Human Rights Ombudsman, created in 1993 and headed by Jorge Santistevan de Noriega, continues to grow steadily in stature and reputation and opened two additional decentralized offices in Iquitos and Huancayo. It receives funds from the Government and foreign governments and is considered one of the most independent and effective forces in the country for bringing citizens justice. The Ombudsman enjoys investigative independence and the ability to inform the public of his conclusions and recommendations. However, he has no enforcement mechanism other than moral suasion. The Ombudsman's achievements include: Reports and recommendations for strengthening democracy and the rule of law; the work of the Pardons Commission, which he chaired (see Section 1.e.); recommendations regarding alleged abuses in the Government's family planning program (see Section 1.f.); the influence on Congress to enact legislative protection for women against discrimination (see Section 5); a legal analysis of the country's obligations under, and the benefits of the Inter-American Court system; a study

of the military recruitment system and recommendations for a voluntary military; and a study on decentralization of administrative and political power.

The Human Rights Ombudsman has a legal mandate to supervise prison facilities defined as "penitentiary centers." However, Ombudsman representatives continued to have problems in gaining access to the military prison in Callao. In September Ombudsman officials requested access to this prison to investigate a hunger strike. Although the military authorities did not reject the request explicitly, they referred the issue to military officials in Lima. By the time the strike had ended, authorities had not acted on the request. However, officials did permit several unscheduled ICRC visits to the Callao facility during the hunger strike. In July Ombudsman officials visited Socabaya prison in Arequipa in response to a prisoner strike. The Minister of Justice subsequently criticized the Ombudsman's office for taking what he believed was an antigovernment stance.

Following its 1998 visit, the IACHR fact-finding mission delivered its conclusions and recommendations to the Government. Although the Government welcomed the Commission's recognition of action taken, such as the creation of the Human Rights Ombudsman's office and the abolition of faceless judges, it rejected the Commission's criticism and recommendations for change. In particular, the Commission had called on the Government to restore the power of the Constitutional Tribunal to rule on constitutional issues by reinstating the three dismissed justices. Following several months of commission-government discussions, the Government announced that it would not comply with this recommendation. The Commission forwarded the case to the Inter-American Court on Human Rights.

On July 8, the Government announced its decision to withdraw from the contentious jurisdiction of the Inter-American Court of Human Rights after that Court determined that the Government had failed to provide due process in the case of four Chileans convicted of treason by a military tribunal (see Section 1.e.).

There were no reports of Sendero Luminoso hampering the work of human rights monitors.

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

The Constitution provides for equal rights for all citizens, and specifically prohibits discrimination based on ethnic origin, race, sex, language, religion, opinion, or economic condition. Nevertheless, discrimination against women, the disabled, indigenous people, and racial and ethnic minorities continued, although progress is being made in a number of areas.

Women

Violence against women, including rape, spousal abuse, and sexual, physical, and mental abuse of women and girls, continued to be a chronic problem. Such abuses are aggravated by insensitivity on the part of law enforcement and judicial authorities toward the female victims of abuse. The National Institute of Statistics estimated in October that 37 percent of adult women living in Lima and Callao are abused annually. One NGO estimates that there are 25,000 annual cases of physical and mental abuse against women. In 1998

Lima's Police Station for Women received 3,089 complaints of domestic violence; in 1999 it expected to receive as many as 5,000 complaints. Nationwide in 1998 there were 27,935 complaints of domestic abuse (77 percent for violence and 23 percent for psychological abuse). Human rights organizations continue to believe that a large number of domestic violence cases remain unreported. Moreover, although official figures for the number of arrests and convictions in abuse cases are unavailable, NGO sources contend that even the vast majority of reported cases do not result in formal charges due to fear of retaliation from the accused spouse, or because of the cost involved in pursuing a complaint.

Legislation addressed the problem of domestic violence in 1993, and 1997 changes in a law simplified the procedures for reporting cases of domestic violence, made the process less expensive, and broadened the judicial remedies available. The 1997 law gave judges and prosecutors the authority to prevent the convicted spouse or parent from returning to the family's home. The law also expanded the number of persons authorized to file complaints of domestic violence to include the victims' relatives and unrelated persons living in the home. Whereas previously victims of domestic violence had to have a specialist in legal medicine certify their injuries, and had to pay for the report, the new law eliminated the required fee and stipulated that the report may be prepared by any health professional.

In March PROMUDEH created the Women's Emergency Program to call attention to the legal, psychological, and medical problems facing women and children who were victims of violence. The program received approximately 8,600 cases between March and November.

According to the Human Rights Ombudsman's office, many women continued to complain that police officers react indifferently to charges of domestic violence, even though the new law clearly requires all police stations to receive such complaints. In 1998 the Ministry of Women's Advancement and Human Development, with NGO assistance, initiated a national program to educate police about domestic violence and to train officers in all police stations in processing domestic violence cases. The Ministry also opened facilities, staffed entirely by women, that bring together in one place representatives of all government institutions--police, prosecutors, counselors, and public welfare agents--to which abused women might have recourse.

According to the Human Rights Ombudsman, many rape victims continue to complain that court-appointed medical examiners inappropriately delved into their past sexual histories. They also accused judges of looking more favorably on rape victims who were virgins prior to the rape and of believing that a woman who was raped must have enticed her attacker. In 1997 Congress repealed a statute whereby convicted rapists could be absolved of their crime if they married their victim.

In May Congress responded to an appeal from the Human Rights Ombudsman and amended the Criminal Code to provide greater protection to victims of sexual violence. The Ombudsman sought elimination of the provision in the code that affords rapists and other sexual predators the opportunity to avoid prosecution if they reach a private settlement with their victims. In addition, the Ombudsman favored rescinding the provision that specifies that, in cases of sexual abuse of victims over 14 years of age, only victims themselves may file a complaint. Many victims are afraid of personally filing a

complaint of sexual abuse, particularly in cases where the perpetrators are police officers.

In August the Human Rights Ombudsman published an updated report on forced or coerced sterilization of women in public hospitals and family planning clinics, and the Government took action on some of its recommendations during the year (see Section 1.f.).

The Constitution provides for equality between men and women, and the 1995 amendments to the Employment Promotion Law, as well as other laws relative to marriage, divorce, and property rights, prohibit discrimination against women. In 1997 Congress prohibited racial and sexual discrimination in employment advertisements or announcements of educational training opportunities. Legislation in 1997 also repealed the old disqualification of unmarried or childless individuals for judgeships in the family courts. This legislation was intended to broaden employment opportunities for single women. In 1998 Congress stripped health-care professionals in police hospitals of their police rank and accorded them civilian status only. Since over 80 percent of such professionals are women, the Human Rights Ombudsman challenged the constitutionality of the new law and its implementing regulations, on grounds of discrimination. The Superior Court of Lima ruled against the Ombudsman, who then appealed the case to the Supreme Court, which had not reached a decision at year's end. In October the Congress passed legislation protecting pregnant women against arbitrary firing.

Traditional assumptions and misconceptions often impede access by women to leadership roles in both the public and private sectors. Because of societal prejudice and discrimination, women historically have suffered disproportionately from the country's pervasive poverty and unemployment. "Mibanco," a program supported by the Government and a consortium of NGO's, represents an effort to improve women's ability to generate income through providing credit to small businesses started by enterprising women. More than 60 percent of its clients are women. As of September, Mibanco's loan portfolio represented \$13.3 million (approximately 46.5 million soles), with a total of 37,600 clients being served through 17 branches.

Children

The Government provides free, compulsory education through secondary school. However, roughly 6 percent of children between the ages of 6 and 12, and 17 percent of adolescents between the ages of 12 and 17, either never have attended school or have abandoned their education. Among children and adolescents who live in poverty or extreme poverty, the corresponding figures are 16 percent and 43 percent, respectively. School nonattendance is highest in rural and jungle areas and affects girls more than boys. In 1998 Congress amended the Child and Adolescent Code to provide pregnant school-age girls with the right to begin or continue attending school, which reversed the previous policy at some schools.

The Children's Bureau of the Ministry of Women's Advancement and Human Development coordinates child- and adolescent-related policies and programs throughout the Government. In the nongovernmental sector, the National Initiative on the Rights of the Child is the largest NGO of its kind and coordinates the work of 27 groups concerned with the problems of children across the nation.

At the grassroots level, 1,010 Children's Rights and Welfare Protection Offices receive and resolve complaints ranging from physical and sexual abuse to child support, abandonment, and undetermined guardianship. Provincial or district governments operate some 55 percent of these offices, while schools, churches, and NGO's run the remaining 45 percent. Law students staff most of the units; only the offices in the wealthiest districts of the country have professionally trained lawyers, psychologists, and social workers. When these offices cannot resolve cases, officials typically refer them to the local prosecutors' offices of the Public Ministry. During 1997 these offices received a total of 41,077 complaints. Of this total, 15,962 concerned lack of child support and 8,288 involved violence against children. In December 1998, Congress enacted new legislation stipulating that settlements adjudicated by these offices are binding legally and have the same force as judgments entered by a court of law.

Violence against children and the sexual abuse of children continued to be serious problems. It is estimated that only 10 to 20 percent of mistreatment and abuse are reported, since many persons believe that such problems belong within the family and should be resolved privately. Nonetheless, in Lima alone, at least 400 rapes of minors are reported annually. In 1996 there were 219,000 orphans in the country, of whom 25,000 were orphaned for reasons related to political violence. There were continuing reports of beatings and other mistreatment of adolescents on army bases, in connection with the conscription of youths for military service (see Section 1.f.).

According to the 1993 Census, 69.6 percent of children 6 to 17 years old lived in poverty. Of these, roughly half live in rural areas. Of all children and adolescents under 17 years of age, 20 percent live in extreme poverty. In 1996 the infant mortality rate was 43 per 1,000. However, this figure masks wide regional disparities: 30 per 1,000 in urban areas, compared with 62 per 1,000 in rural areas. Twenty-six percent of children under age 5, and 48 percent of children ages 6 to 9, suffered from chronic malnutrition. In those homes where the mother has a low level of education, as many as 50 percent of the children suffer from chronic malnutrition and 114 per 1,000 die from preventable causes before they reach age 5.

Street crime committed by children and adolescents is extremely high, including robbery, physical assault, and vandalism, often carried out by gangs. According to a 1998 congressional commission study that investigated the causes of crime, such gangs carry out 75 percent of all acts of vandalism, 29 percent of assaults, and 23 percent of robberies. The majority of these crimes are committed under the influence of drugs and alcohol, and their underlying causes are unemployment, nonattendance at school, and difficult family relationships.

In 1998 the Government enacted a series of measures to reduce street crime, including prosecuting 16- to 18-year-old criminal gang members in military courts and sentencing those convicted to no less than 25 years in adult prisons. Human rights groups concerned with the protection and welfare of children and adolescents called on the Government to repeal such measures.

As many as 1.2 million children work to help support their families. Of this total, some 500,000 are under the age of 14, while 700,000 are between the ages of 15 and 17 (see Section 6.d.).

Although laws exist that prohibit sexual abuse of minors and police enforced such laws, there continued to be reports that minors and young adults work in the sex trade.

People with Disabilities

The Constitution provides that severely disabled persons have "the right to have their dignity respected and to be provided by law with protection, care, rehabilitation, and security." In 1998 new comprehensive legislation established the National Council for the Integration of People with Disabilities and specified the rights, allowances, programs, and services that should be provided for the disabled. The statute prohibits discrimination, mandates that public spaces be barrier-free and that buildings be architecturally accessible, and provides for the appointment of a specialist in disability rights in the office of the Human Rights Ombudsman. Nevertheless, in practice, the Government devotes little attention and resources to the disabled, and they remain economically and socially marginalized.

The Government does not allocate sufficient funds to make genuine integration of the disabled into the economy actually possible. According to the National Coordinator of the Association of Disabled People, the Government allocated approximately \$250,000 (1 million soles) to integrate the disabled into the economy. Although the new legislation prohibits discrimination in the workplace, it is vague regarding the source of funds to pay for the human assistance, technological support, and environmental adaptations that often are necessary to enable disabled workers to be productive. As a result, disabled individuals and the private agencies serving them generally must rely on public charity and on funding from international organizations.

The 1993 census counted 288,526 disabled persons, or 1.3 percent of the population; however, the Ministry of Health and the Pan American Health Organization believe that the vast majority of disabled persons either do not wish to acknowledge their disability to census takers or do not know what constitutes a disability, and that the actual number of disabled persons could be as high as 3 million, or 13.8 percent of the population. The Government, in conjunction with the country's hospitals, plans to implement a national register of disabled persons; however, it had not yet done so by year's end.

Since the privatization of the social security and national health insurance systems, it has been difficult for many disabled persons to obtain coverage because insurance carriers typically believe that a severe disability necessarily increases a person's vulnerability to accidents and illnesses.

Although construction regulations have long mandated barrier-free access by persons with physical disabilities to public service buildings, no effort has been made to implement this provision. Nor do accommodations exist, such as accessible polling stations, interpreters for the deaf in government service offices, and Braille or recorded versions of the Constitution, which would permit the disabled to participate in the basic processes of democracy and citizenship.

According to officials of the Institute for Social Security, less than 1 percent of severely disabled citizens actually work. Among those who do, many have been channeled into a restricted number of occupations traditionally assumed to be "suitable" for the disabled, such as telephone switchboard operation and massage, in the case of the blind. Some

private companies have initiated programs to hire and train the disabled, and a private foundation provides small loans to the disabled for the purpose of starting their own businesses. Nevertheless, in general, disabled persons continued to face discrimination by potential employers. For example, the basic statute governing the policies and procedures of the judicial branch specifically prohibits the blind from serving as judges or prosecutors, a discriminatory provision that the National Judiciary Council has interpreted to apply to all persons with disabilities. In 1998, SEDAPAL, Lima's water utility, dismissed all its blind switchboard operators, ostensibly as part of a nondiscriminatory, across-the-board cost-cutting measure. However, the chief advocate for the disabled in Congress reported that all the blind operators immediately were replaced by younger, sighted recruits. The disabled only recently have begun to organize and demand equal rights and opportunities as a minority.

Indigenous People

The Constitution prohibits discrimination based on race and provides for the right of all citizens to speak their native language. Nevertheless, the large indigenous population still faces pervasive discrimination and social prejudice. Many factors impede the ability of indigenous people to participate in, and facilitate their deliberate exclusion from, decision-making directly affecting their lands, culture, traditions, and the allocation of natural resources. According to indigenous rights groups, the provisions in the 1993 Constitution and in subsequent implementing legislation regarding the treatment of native lands are less explicit about their inalienability and unmarketability than were earlier constitutional and statutory protections. Pervasive discrimination and social prejudice intensify feelings of inferiority and second-class citizenship. Many indigenous people lack such basic documents as a birth certificate or a voter's registration card that normally would identify them as full citizens and enable them to play an active part in society.

Peruvians of Indian descent who live in the Andean highlands speak Aymara and Quechua, which are recognized as official languages. They are also ethnically distinct from the diverse indigenous groups that live on the eastern side of the Andes and in the tropical lowlands adjacent to the Amazon basin. A 1998 regulation stipulating that all school teachers must have a professional teaching certification initially caused fears that uncertified indigenous teachers would lose their jobs, and that the continued use of Aymara and Quechua as languages of instruction, as well as the very survival of indigenous cultures, had been put in jeopardy; however, due to the unwillingness of many certified teachers to work in rural areas, uncertified Aymara- and Quechua-speaking teachers continue on the job.

The native population of the Peruvian Amazon, which the Government estimates at a little under 200,000 and organizations representing the native communities estimate at between 200,000 and 300,000, faces pervasive discrimination and social prejudice. In accordance with local culture and traditions, most of the native communities have a spiritual relationship with their land, and the concept of land as a marketable commodity is alien to them. Nevertheless, according to the Director of the Human Rights Ombudsman's Native Communities Program, the only right still statutorily set aside for this native population with respect to its land is that of "unassignability," which prevents the title to such lands from being rea