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PERU

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While overall observance of human rights continues to improve, recent trends have been towards undermining the independence and power of constitutionally-mandated autonomous bodies designed as checks and balances to the Executive.

BACKGROUND

Peru's human rights record has improved over the past several years. Problems remain, many of which are linked to terrorism and narco-trafficking. On paper, Peru has a full range of institutions for the protection and promotion of human rights and democratic development as stipulated in the 1993 Constitution. In practice, the **Ombudsman** (Defensor del Pueblo) has become the main independent defender of human rights.

Illegal or arbitrary detention (particularly on suspicion of terrorist activities) is a major problem. Significant numbers of cases of torture have been reported, suggesting this practice can be considered institutionalized. In recognition of this situation, the Congress passed in January 1998 a law making torture (along with genocide and forced disappearance) a specific crime under the criminal code.

Canada also has concerns regarding **freedom of expression**. While the media is free to express opinions on most subjects, direct criticism of the President's bid for re-election, appeals for accountability on the part of Advisor Vladimiro Montesinos, or direct attacks on the military leadership appear taboo, and journalists have suffered harassment and threats. A November 1998 Mission of the Inter-American Commission on Human Rights concluded that there are restrictions on freedom of press which the Government must address, and stressed that concept of freedom of expression includes a guarantee of protection by the Government. The Government has not yet responded positively to the request of the UN Special Rapporteur on Freedom of Expression for an invitation to visit.

There has also been a deterioration in respect for the **rule of law**. The independence of judiciary is of concern, with the process for appointing judges (70% of whom are provisional) far from transparent. The question of impunity is also of concern. On the positive side, "secret courts" established to try terrorist cases were abolished in October 1997. The Ad Hoc Commission to review cases of those believed to have been unjustly imprisoned on terrorism charges continues its work under a renewed mandate. To date, 435 individuals have now been released through the Ad Hoc Commission process. Nonetheless, those still imprisoned on charges of terrorism often face military rather than civilian judges. A Presidential decree in May 1998 also places cases of extremely violent crime before military courts. There are concerns about the access of prisoners (both common and terrorists) to attorneys.

Also of concern is the plight of some 10,000 persons with outstanding warrants against them based on charges of aiding and abetting terrorism. They remain fugitives without legal protections. The Ad Hoc Commission has also been charged with investigating this issue. Under 1992 anti-terrorism legislation, "Emergency Zones" were established where terrorist

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