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ACTION ARA-01

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R 092137Z JUN 95
FM AMEMBASSY LIMA
TO SECSTATE WASHDC 5292
INFO USMISSION GENEVA
DIA WASHDC
USCINCSO QUARRY HEIGHTS PM

Release additional
RELEASED IN PART
1.5(D), B1

S E C R E T SECTION 01 OF 02 LIMA 005374
SOUTHCOS ALSO FOR POLAD

E.O. 12356: DECL:OADR
TAGS: PHUM, PGOV, PE
SUBJECT: PERU: UPDATE ON BARRIOS ALTOS CASE

REF: A. LIMA 3793, B. LIMA 4859

1. (U) OADR DESIGNATION NECESSARY TO PROTECT SOURCES.

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2. (C) SUMMARY: THE CIVILIAN JUDGE IN THE BARRIOS ALTOS HUMAN RIGHTS CASE HAS REJECTED A PETITION BY THE MILITARY COURTS THAT SHE NOT PROCEED WITH PROSECUTION AGAINST FIVE ARMY PERSONNEL INDICTED FOR THE NOVEMBER 1991 MASSACRE. THE MILITARY JUSTICE SYSTEM IS SEEKING A RULING THAT WILL GRANT IT JURISDICTION IN THE CASE. MEANWHILE, A NUMBER OF SUBPOENAED OFFICIALS (INCLUDING INDICTED GEN. JULIO SALAZAR, ARMY CHIEF GEN. HERMOZA AND DE FACTO

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DEPT OF STATE APPEALS REVIEW PANEL (ARP) Page: 1
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Exemptions B1
ARP Action Cert. [Signature] Date 07/08/02

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: SAM A. MOSKOWITZ
DATE/CASE ID: 15 JUN 2001 200101053

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INTELLIGENCE CHIEF MONTESINOS) HAVE REFUSED TO
TESTIFY BEFORE THE CIVILIAN JUDGE.

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No charge

JUDGE REJECTS MILITARY PETITION TO DROP THE CASE

3. (U) ON JUNE 6, THE CIVILIAN JUDGE IN THE BARRIOS ALTOS CASE (REFTELS), ANTONIA SAQUICURAY, FORMALLY REJECTED A PETITION FILED BY THE MILITARY JUSTICE SYSTEM THAT SHE NOT PROCEED WITH THE CASE. THE MILITARY COURT'S PETITION WAS BASED ON THE ASSERTION THAT, BECAUSE THE ACCUSED ARE ALL ACTIVE OR RETIRED MEMBERS OF THE ARMY, THE MILITARY JUSTICE SYSTEM SHOULD HAVE JURISDICTION. THE PETITION ALSO CLAIMED THAT A MILITARY JUDGE OPENED THE CASE ON JANUARY 24, FOUR MONTHS BEFORE SAQUICURAY INDICTED THE FIVE MEN ACCUSED OF THE
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NOVEMBER 1991 KILLINGS. THE MILITARY JUSTICE SYSTEM WILL NOW APPEAL FOR JURISDICTION TO THE PERUVIAN SUPREME COURT.

OFFICIALS IGNORE SUBPOENAS

4. (U) IN THE MEANTIME, SEVERAL OF THOSE SUBPOENAED TO APPEAR BEFORE THE JUDGE TO GIVE TESTIMONY HAVE REFUSED TO DO SO. ONE OF THE ACCUSED, RETIRED ARMY GENERAL JULIO SALAZAR MONROE, THE NOMINAL HEAD OF THE NATIONAL INTELLIGENCE SERVICE (SIN), HAS CLAIMED HE CANNOT GIVE TESTIMONY BECAUSE HE HAS MINISTERIAL RANK AND ONLY THE CONGRESS CAN ORDER HIM TO APPEAR BEFORE THE JUDGE. SAQUICURAY (AS WELL AS SEVERAL INDEPENDENT JURISTS) HAVE REJECTED THE NOTION THAT THE HEAD OF THE SIN ENJOYS MINISTERIAL PRIVILEGES. ARMY COMMANDING GENERAL NICOLAS DE BARI HERMOZA -- WHO IS NOT INDICTED BUT WAS ORDERED TO GIVE TESTIMONY -- HAS ALSO REFUSED TO APPEAR, ASSERTING THAT THE MILITARY COURTS HAVE PROHIBITED HIM FROM

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TESTIFYING BEFORE A CIVILIAN JUDGE. PRESIDENT FUJIMORI'S NATIONAL SECURITY ADVISOR AND DE FACTO HEAD OF THE SIN, VLADIMIRO MONTESINOS, HAS NOT RESPONDED TO THE SUBPOENA. AND THE ARMED FORCES JOINT COMMAND HAS NOT REPLIED TO THE JUDGE'S REQUEST TO INTERVIEW THE THREE CONVICTED ARMY PERSONNEL SERVING SENTENCES FOR THE LA CANTUTA KILLINGS AT A LIMA ARMY BASE.

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5. (U) THE JUDGE HAS, HOWEVER, TAKEN TESTIMONY FROM SEVERAL WITNESSES AND SURVIVORS OF THE BARRIOS ALTOS MASSACRE. IN ADDITION, CONGRESSMAN JULIO CASTRO, WHO WAS ONE OF THE FIRST MEMBERS OF CONGRESS TO INVESTIGATE THE CASE, HAS ALSO TESTIFIED. EXILED RETIRED GENERAL RODOLFO ROBLES, WHO WILL NOT RETURN TO PERU FROM ARGENTINA AFTER HE PUBLICLY ACCUSED THE ARMY OF THE BARRIOS ALTOS AND LA CANTUTA KILLINGS, WILL RESPOND TO THE JUDGE'S QUESTIONS IN WRITTEN FORM.

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8. (C) WHEN ASKED WHAT EVIDENCE [REDACTED] HAD AGAINST GENERAL SALAZAR [REDACTED] RESPONDED THAT THERE WAS NO DEFINITIVE PROOF, ONLY CIRCUMSTANTIAL EVIDENCE AND ACCUSATIONS [REDACTED] HAD EVEN LESS ON MONTESINOS [REDACTED] SAID. [REDACTED]

MILITARY COURT'S CASE "UNBELIEVABLE" [REDACTED]

9. (C) [REDACTED] WAS BLUNT IN CALLING THE MILITARY COURT'S CASE "UNBELIEVABLE." [REDACTED] DID NOT ACCEPT THE ASSERTION THAT THE MILITARY COURT HAD OPENED ITS CASE ON JANUARY 24, WHEN ACCUSATIONS [REDACTED]

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AGAINST SALAZAR WERE NOT EVEN MADE UNTIL A WEEK LATER. IN ADDITION, THE MILITARY DENUNCIATION OF THE SAME FIVE INDICTEES APPEARED TO BE A WORD-FOR-WORD COPY.

BELIEVES IT WAS WRITTEN IN MAY AND BACKDATED TO JANUARY. AFFIRMED THAT THE CIVILIAN JUDGE WAS NOT GOING TO VOLUNTARILY GIVE UP THE CASE.

10. (C) ONE OF THE KEY WITNESSES, JOSE BAZAN ADRIANZEN, HAS APPARENTLY GONE INTO HIDING. IN PRESS AND TV INTERVIEWS IN LATE JANUARY, BAZAN CLAIMED TO BE A PART-TIME MEMBER OF THE "COLINA" ARMY INTELLIGENCE DEATH SQUAD, WHICH HE ACCUSED OF
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CARRYING OUT THE BARRIOS ALTOS KILLINGS.

HAD BEEN UNABLE TO LOCATE BAZAN, BUT HAD USED HIS PUBLIC ACCUSATIONS, AMONG OTHER THINGS, IN FORMULATING THE CHARGES AGAINST THE FIVE ARMY PERSONNEL.

JURISDICTION DECISION TO COME IN JULY.

12. (C) COMMENT: THE CASE IS BEGINNING TO GENERATE MORE PUBLICITY. AS WE NOTED REFTELS, IT IS UNLIKELY TO END UP IN CIVILIAN COURT. THE ACCUSATIONS MAY MAKE IT MORE DIFFICULT FOR FUJIMORI TO PARDON THOSE CONVICTED OF THE LA CANTUTA KILLINGS, AS HE HAS BEEN RUMORED TO BE CONSIDERING (SEE BELOW).

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