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COUNSEL

Gary Finn, Indio, California, for the petitioner.

I. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner is a native and citizen of Peru who entered the United States without inspection in October 1992. He seeks asylum and withholding of deportation for alleged persecution by the Shining Path guerrillas in Peru. The Shining Path is an armed Maoist revolutionary group that seeks to overthrow the Peruvian government by force. A 1991 report by Amnesty International indicated that the Shining Path had tortured and killed thousands of Peruvians, frequently subjecting its victims to mock trials before executing them.

In 1989, Petitioner was elected one of four barrio presidents in his hometown of San Pedro de Cajas, Peru. His duties were roughly equivalent to a city councilperson and concerned town maintenance and various administrative matters. Petitioner is a Shining Path member.

broke down the front door, and beat his father and mother when they learned that he was not there. The Shining Path took eight people whose names appeared on the list to the town square, where they held a mock trial and then summarily executed the eight individuals by shooting them against a town wall. This event was documented in several newspaper articles submitted by Petitioner and corroborated by eye witness testimony at his asylum hearing. Petitioner's father-in-law and one of the four barrio presidents were among those who were murdered.

Two days after attending the victims' funerals, Petitioner, along with his parents and siblings, fled to Lima, the capital of Peru. For the next one and one-half years, Petitioner had

tified, the Immigration Judge ("IJ") issued an oral decision

dence that the conditions in the applicant's home country have changed such that he or she no longer has a well-founded fear of being persecuted. 8 C.F.R. § 208.13(b)(1)(i) (1999); Reyes-Guerrero

ceeding against the Shining Path. Indeed, the report treats former President Fujimori's claim skeptically by using phrases such as "[t]he president has gone so far as to say. . . ."

Thus, no reasonable factfinder could conclude on the basis of the 1993 Amnesty report that conditions had changed in Peru to such an extent that Petitioner no longer has a well-

