

USAID Quarterly Report

PERU: SUPPORT FOR THE DEMOCRATIC PROCESS IN PERU THROUGH INTERNATIONAL MONITORING OF THE 2001 ELECTION PROCESS

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I. SUMMARY

Beginning in January 2001, the National Democratic Institute for International Affairs (NDI) and The Carter Center (TCC) initiated a joint international election monitoring project for the extraordinary 2001 elections in Peru. At the end of January, the two institutes established a short-term field office in Lima led by two in-country representatives familiar with the Peruvian context who worked on the NDI/Carter Center monitoring project for the 2000 elections.

During the reporting period, the field office has monitored political developments and reported on pre-election conditions based on ongoing consultations with the political contenders, the election authorities and both Peruvian and other international election observer groups.

The joint observation mission also organized two pre-election observation missions during this reporting period. The first delegation, which was led by former Guatemalan President Ramiro de Leon Carpio, visited Peru from January 18 through 26, and the second pre-election mission took place March 4 to 9. Both delegations expressed satisfaction with the electoral environment and preparations for the April 8 elections. According to the report issued by the second delegation in early March, Peru's interim government has established the necessary conditions for a free, transparent and legitimate election.

After the second pre-election assessment mission, the two partner organizations began intense preparations for an international delegation of 35 election observers to monitor the voting process on April 8, 2001. Two long-term observers arrived in Lima to prepare the nine deployment sites for the observation delegation, and two logistics staff began preparing hotel and transportation arrangements for the election-day delegation.

II. BACKGROUND

Just one year ago, Peru was preparing for the April 9, 2000 presidential and legislative elections, in which then-President Fujimori was running for an unconstitutional third term of office. The circumstances surrounding last year's elections in Peru were among the worst ever observed in this hemisphere by NDI and The Carter Center. Thanks to the meticulous video documentation of the activities of Vladimiro Montesinos, there is now proof that President Fujimori's electoral victory was assured through the government's calculated control of media outlets, congresspeople, military officials, Cabinet ministers, judges and even members of the National Electoral Tribunal (JNE).

The fraudulent elections of 2000 led the Organization of American States (OAS) General Assembly to pass a resolution in June 2000 on the urgent need for democratic reform in Peru. A dialogue process was then established under the auspices of the OAS (*Mesa de Dialogo y Concertacion*). Soon after this process began, corruption scandals related to the activities of Montesinos and the National Intelligence Services rocked the government of then-President Fujimori. The President's lack of a clear, democratic mandate contributed to his government's collapse under the weight of these scandals. When President Fujimori announced his intention to step down within one year, the OAS-brokered dialogue led to actions by the Peruvian Congress to amend the Constitution and put the necessary procedures in place to hold an extraordinary election in 2001. The opposition then won leadership of Congress, a development that led Fujimori to resign from office while on a state visit to Asia. Congress refused the President's resignation but proceeded to remove Fujimori from office on grounds of moral incapacity. As a result, the newly elected President of Congress, Valentin Paniagua, became President of the Republic in December.

After a decade of centralized government and the steady erosion of democratic institutions in Peru, the new government quickly recognized that it was critical for the 2001 elections to rebuild public confidence in the political process. In this sense, these "extra-constitutional" elections require extraordinary efforts to establish a solid foundation for Peru's democratic future. Immediately upon taking office, President Paniagua and his new ministers began taking decisive steps to guarantee the neutrality of state institutions, local officials, the armed forces and the forces of public order in the 2001 election. Both the President and his Cabinet have made a clear public commitment, through official directives, to ensuring impartiality of government authorities.

The transitional government has essentially faced two parallel challenges since assuming office. The first has been to organize a genuine, democratic election process to inaugurate a new President and Congress by July 28, 2001. The second has been to investigate and bring to justice the numerous individuals implicated in the network of corruption associated with Vladimiro Montesinos and the Fujimori Administration. Although the election process has a clear deadline, it will likely be many months, if not years, before the corruption investigation is concluded. The ongoing investigation of numerous public officials, many of whom are affiliated with political groups competing in the current election process, has resulted in an unusually turbulent campaign environment and a prevailing climate of public skepticism.

In addition, the 2001 election process is taking place in a compressed timeframe, and the election authorities have faced significant challenges from the outset. Both the National Election Tribunal (JNE) and the National Office of Electoral Processes (ONPE)¹ are working with primarily new personnel. In the case of the ONPE, more than 75 percent of former employees were replaced with less than four months to go before the election. Although the new head of the ONPE, Fernando Tuesta, pleaded for a postponement of the election date, his request was overruled due to political considerations. As a result, the ONPE staff has been working around

¹ The JNE is the highest electoral authority in Peru for the resolution of legal issues related to the election and for the overall supervision of the process. The ONPE actually organizes and administers the election process. For more information on the division of task between these two election authorities, please see the Peru Briefing Paper.

the clock for the past three months to meet tight deadlines and rebuild public trust in the institution.

The high level of interest and unprecedented collaboration of the international community in this election process demonstrate the significance of Peru's democratic transition for the hemisphere and its regional organizations. The April elections provide Peru with an extraordinary opportunity to begin the collective task of building those democratic institutions that the Peruvian people desire and merit.

III. PROGRAM ACTIVITIES

First Pre-Election Assessment Mission: January 18 to 26, 2001

At the request of Peruvian civic groups and political parties, NDI and The Carter Center traveled to Peru early this year to monitor electoral developments leading up to the April 8 elections. From January 18 through 26, NDI/TCC organized a pre-election assessment delegation to Peru led by former President of Guatemala, Ramiro de Leon Carpio. The delegation also included Monica Jimenez de Barros, founder and for 12 years Executive Director of PARTICIPA (a Chilean nongovernmental organization dedicated to strengthening democracy) and former member of Chile's Truth and Reconciliation Commission; Charles Costello, Director of the Democracy Program at The Carter Center; Patrick Merloe, NDI Senior Associate and Director of Programs on Election and Political Processes; Gerardo Le Chevallier, NDI Director for Latin America and the Caribbean; and Denis Kadima, NDI's Election Observation Coordinator for the Southern Africa Development Community Parliamentary Forum. The delegation was joined by Luis Nunes, Resident Project Director, and Linda Frey, Deputy Resident Project Director of the NDI/TCC joint election observation mission in Peru.

The delegation held intensive meetings with a wide range of Peruvian leaders, including: the President of the Republic Valentin Paniagua; the members of the National Electoral Tribunal (JNE) and the heads of the National Electoral Process Bureau (ONPE) and the National Identification and Marital Status Registry (RENIEC); the Minister of Justice; the Minister of Defense and the Commanders of all three branches of the armed forces; leaders of the Congress; the *Defensoria del Pueblo* (Ombudsman's Office); 14 of the prospective candidates for President or their representatives; representatives of the news media and public opinion research organizations; civic and religious leaders, including leaders of *Transparencia*; the Permanent Secretary of the High Level OAS Mission in Peru, Eduardo Latorre, and other representatives of the international community.

NDI/TCC released a statement on the findings of the pre-election assessment mission at a press conference held in Lima on January 26.¹ The delegation concluded that the election process showed positive changes in its democratic development, and that the environment surrounding the 2001 extraordinary presidential and parliamentary elections is fundamentally different from that of last year. All of those with whom the delegation met expressed a high degree of confidence in the integrity of the new leaders of government and of the electoral authorities. Nonetheless, the delegation reported that a number of significant challenges in the

¹ Included in Appendix A

election process would require concerted efforts by all electoral authorities and active support by all branches of government to overcome. Sufficient tolerance and respect among candidates would be required to help keep the long-term national interests in mind. Another challenge mentioned was the requirement for responsible actions by the news media and broad citizen participation – a “citizenization” of the elections – to support a democratic process and ensure the accountability of the future government.

Second Pre-Election Assessment: March 5 to 9, 2001

From March 5 through March 9, 2001, NDI and The Carter Center organized the second of two scheduled pre-election delegations to Peru. This delegation included Arturo Valenzuela, Director of Latin American Studies at Georgetown University and former special assistant to President Clinton and Senior Director for Inter-American Affairs at the National Security Council; Horacio Boneo, senior consultant in democratic governance and former Director of the United Nations Electoral Assistance Division; NDI’s Le Chevallier; and Shelley McConnell, Associate Director of the Latin American and Caribbean Program at The Carter Center. The delegation was joined by the staff of the Election Observation Mission in Peru; Nunes; Frey; and Francisco Robles, Long-Term Observer.

The delegation met with a wide range of Peruvian leaders, including the President of the JNE and the head of the ONPE; the President of the Cabinet of Ministers; the Minister of the Interior; the Minister of Promotion of Women and Human Development; seven of the presidential candidates or their representatives; representatives of the news media and public opinion research organizations; the Consejo Nacional de la Magistratura; the President of the Supreme Court; the acting Defensor del Pueblo; civic leaders, including leaders of Transparencia; and representatives of the international community.

NDI/TCC released a statement on the findings of the pre-election assessment mission at a press conference held in Lima on March 9, 2001.² The delegation was pleased to reaffirm the conclusion reached by the January assessment mission, that Peru’s interim government had established the necessary conditions for a free, transparent and legitimate election of the next President and Congress of Peru. The delegation also commended the extraordinary efforts that the government of President Valentin Paniagua has undertaken to guarantee the neutrality of state institutions, the armed forces and the forces of public order.

The delegation report listed 10 steps Peruvian authorities have taken since January to prepare for the vote, including providing television time to all political groups, setting up regional electoral offices, and initiating a voter education campaign. Boneo, the mission’s chief elections expert, characterized the Peruvian electoral process as “well within international norms for a democratic election.” Nonetheless, the members of the delegation noted that the campaign is developing in the context of ongoing revelations concerning corruption in former President Fujimori’s regime and warned that this legacy of mistrust and the increasingly competitive presidential race threatened to damage the tone of the campaign. In addition, the observers encouraged the use of quick counts on election day to build confidence in the election results, noting that these statistical projections of the vote totals are more accurate than exit polls.

² Included in Appendix B.

IV. RESULTS AND ACCOMPLISHMENTS

In the original proposal for this international election monitoring program, NDI and TCC suggested that the following results would serve as indicators that the program was meeting its stated objectives:

- *Oral and written statements made by the NDI/TCC election monitoring project convey the support of the international community for peaceful, transparent and democratic elections;*
- *NDI/TCC delegation statements are cited by other international observer groups;*
- *Peruvian political and civic leaders reference NDI/TCC assessment statements in their own evaluation of the election process;*
- *NDI/TCC delegation statements are widely covered by the Peruvian media;*
- *Potential systematic problems with the electoral preparations noted by the delegations are referred to the appropriate Peruvian bodies;*
- *Issues identified in pre-election assessments are addressed by the authorities; and*
- *The NDI/TCC delegations work in close cooperation with Peruvian election monitoring groups and reference their findings where appropriate.*

Progress toward achieving these results is summarized below.

1. Oral and written statements made by the NDI/TCC election monitoring project convey the support of the international community for peaceful, transparent and democratic elections.

On January 26 and again on March 9, the pre-election observation missions of NDI and The Carter Center issued public statements assessing pre-election conditions in Peru. Both of these statements noted one of the primary objectives of the joint election monitoring project: “to express the support of the international community for a democratic election process in Peru.”

2. NDI/TCC delegation statements are cited by other international observer groups.

The NDI/TCC observation mission in Peru has often been consulted by other international observer groups within Peru, including the OAS observer mission and the European Union observer mission, both of which arrived subsequent to the establishment of the NDI/Carter Center field office in Peru. In addition, NDI’s Merloe joined the U.S. General Accounting Office in presenting testimony on the electoral situation in Peru to the U.S. Congress in March.

3. Peruvian political and civic leaders reference NDI/TCC assessment statements in their own evaluation of the election process.

In February, the Peruvian civic group Transparencia invited the NDI/Carter Center observation mission to sign the Civility Pact among the presidential candidates as a witness. NDI’s Nunes signed the agreement on behalf of the two institutes at a public ceremony held in

Lima. The observation mission field staff has participated consistently in weekly meetings organized by *Transparencia* to evaluate the electoral context.

4. NDI/TCC delegation statements are widely covered by the Peruvian media.

Both delegations held well-attended press conferences at the conclusion of their assessment missions. The major newspapers in Lima all printed summaries of the observations and recommendations of the international observers. However, press coverage in general of election observer missions has diminished since last year, largely due to the positive nature of the observers' reports.

5. Potential systematic problems with the electoral preparations noted by the delegations are referred to the appropriate Peruvian bodies

Although the NDI/Carter Center pre-election missions did not observe serious flaws in the pre-election process, a number of minor concerns were addressed to the appropriate Peruvian bodies through the meetings that the delegations had with representatives of the Peruvian government and election authorities. These concerns included, among others, suggestions to remove and/or replace local officials (prefects and governors) appointed by the Ministry of the Interior; calling on the JNE to consult closely with the ONPE in making any changes to the electoral framework; recommending that the government dedicate more resources to the investigation of the corruption scandals of the former regime; and suggesting that Congress and the election authorities reconsider prohibitions on the release of polling data on election day.

6. Issues identified in pre-election assessments are addressed by the authorities

The statement of the January pre-election mission included the following recommendations:

- **Civility Is Needed in the Election Campaign.** The delegation recommends that the candidates for president and the leaders of the political parties participating in the 2001 extraordinary elections sign an agreement to respect the law, the rights of voters and each other's civil and political rights during the campaign and thereafter. The agreement could be witnessed by organizations and personalities, such as *Transparencia*, the Conference of Catholic Bishops (*Conferencia Episcopal Peruana*) and other religious, professional, business and civic organizations or leaders.
- **Timely Review Is Appropriate for Corruption Proceedings.** The delegation suggests that consideration be given to applying additional professional resources so that the evidence can be reviewed properly and be released in a timely fashion.
- **Citizens' Right to Information Is Central to Proper Elections.** The delegation recommends that consideration be given to dropping the registration requirement for opinion pollsters (or minimizing it), that the restriction against immediate release of quick count information be lifted, and that the limitation on publishing opinion polls be reconsidered. The delegation commends ONPE's efforts to provide real-time access to its computerized vote tabulations on election night and encourages that its computer software be tested in the presence of parties and impartial observers.

- **Broad Citizen Mobilization for the Election Process Is Needed.** The delegation urges the ONPE, political parties, civic, religious, business and labor organizations, as well as the mass communications media, to call on citizens to participate in monitoring the election process.
- **Further Consideration Seems Warranted for Replacing Some Officials.** Suggestions have been made by political parties and others to review prefects, governors and some other officials who serve at the will of the Ministry of Interior. Further consideration of such measures seems warranted to protect the elections and broader political processes from those who might seek to impede proper elections.

The March delegation noted a number of improvements that relate directly to the recommendations listed above. These developments included:

- Seven of the eight presidential candidates signed a Pact of Civility sponsored by the civic organization, *Transparencia* and witnessed by the *Conferencia Episcopal*, the OAS, NDI/TCC and the United Nations. A Commission was created to respond to complaints raised within the context of this Agreement and to ensure continued dialogue among the political groups competing in the elections.
- Almost all of the political parties competing in the election are benefiting from free advertising time in the media (*franja electoral*), aired every evening on national television and radio stations between 8 and 11 PM.
- The ONPE has initiated a voter education campaign that includes the use of high-quality educational materials produced by the ONPE in several languages and disseminated through the mass media. The campaign is being led by 250 full-time “election promoters” (*promotores electorales*) throughout the country.
- The transitional government has completed an overhaul of state-run institutions to ensure the neutrality of public officials in the electoral process. In particular, the Ministry of the Promotion of Women and Human Development has removed and replaced all personnel linked with manipulation of food assistance programs in the past election process. The Ministry of the Interior has replaced the prefects (appointed political officials at the departmental level) in all 25 departments and is removing lower-ranking officials.
- The *Consejo Nacional de la Magistratura* has been reconstituted as an independent and autonomous entity and is committed to phasing out provisional judges in the judicial system.
- The Waisman Commission, charged with investigating the bank accounts and financial corruption organized by Montesinos, has released two reports since the last NDI/TCC delegation, and the Peruvian Congress has approved an extension of the mandate of the Waisman Commission until May 30.

7. The NDI/TCC delegations work in close cooperation with Peruvian election monitoring groups and reference their findings where appropriate.

Throughout this observation effort, both for the controversial 2000 elections and for this year’s extraordinary April 8 elections, NDI and The Carter Center have made a sustained effort to support, encourage and publicize the efforts of Peruvian monitoring groups such as *Transparencia* and the *Defensoria del Pueblo*. Each of the NDI/Carter Center pre-election

delegations met with the leaders of these groups, and both public statements praised the positive role that Peruvian monitoring groups are playing in the electoral process.

V. FUTURE ACTIVITIES

NDI/TCC is currently preparing for the upcoming International Election Observation Mission, which is scheduled to take place April 4 - 10, 2001. Former U.S. President Jimmy Carter will be leading this delegation of approximately 35 political leaders, electoral experts and Peru specialists.



PERU BRIEFING PAPER

I. Introduction

The purpose of this briefing paper is to provide a context for the extraordinary 2001 elections in Peru. The paper presents a brief summary of the rise to power of Alberto Fujimori, the events leading to Fujimori's bid for a third term in 2000, the contentious 2000 election process, and the collapse of President Fujimori's regime just two months after his inauguration. It also provides a general description of the Peruvian electoral system, election authorities, and political parties.

II. Recent Political History

A decade of instability

Throughout the 1980's, Peru's political and economic situation gradually deteriorated under the leadership of democratically elected members of two of the country's traditional political parties, *Accion Popular* (AP) and *Alianza Popular Revolucionaria Americana* (APRA). By the end of the decade, Peru was facing not only grave economic problems, but a serious terrorist threat as well. Despite the government's attempts to defeat the *Sendero Luminoso* (Shining Path) and *Movimiento Revolucionario Tupac Amaru* through expanded military operations and intelligence gathering, the two guerrilla movements remained dangerously powerful. Critics of the government's counter-terrorism initiatives argued that they only served to increase violence and led to widespread human rights violations on both sides of the conflict.

The results of this political and economic crisis included a general decline in political participation and a severe weakening of the political party system in Peru. As organized parties lost credibility and support, non-traditional movements emerged as attractive alternatives to the status quo. In this context, independent candidate and political outsider Alberto Fujimori surprised the world by defeating the favored presidential candidate in the 1990 Peruvian national elections. Fujimori and his *Cambio-90* alliance, a political coalition created especially for the 1990 elections, defeated internationally recognized novelist Mario Vargas Llosa, who represented a well-known coalition of center-right traditional parties.

Fujimori and the autogolpe (1990 - 1992)

During his first two years in power, Fujimori instituted a number of effective initiatives, including the establishment of civilian defense patrols and the implementation of anti-corruption

measures. Fujimori also introduced severe austerity measures in order to reverse the country's economic downturn. However, tensions between congress and the president steadily increased, with congress criticizing Fujimori's authoritarian manner of governing, and Fujimori in turn accusing the congress of being ineffective and corrupt.

In April 1992, Fujimori suspended the 1979 constitution and dissolved both congress and the court system in a self-administered coup (*autogolpe*). Weary of years of violence, economic crisis and ineffective government, the Peruvian people generally supported Fujimori's action. However, the international community was extremely critical of the *autogolpe*, threatening the Peruvian government with economic sanctions and political isolation. Fujimori responded by quickly establishing a timetable for a return to constitutional government through the election of a new constituent assembly.

The Congreso Constituyente Democrático (CCD)

With the traditional parties widely divided over whether or not to participate in the new government, the November 1992 elections for a constituent assembly were dominated by Fujimori's *Cambio-90* coalition, which won 44 of the 80 congressional seats. Not surprisingly, the newly formed *Congreso Constituyente Democrático* (CCD) proceeded to draft a constitution that included most of the provisions that Fujimori had sought, such as establishing the president's right to serve two consecutive terms of office; reducing the legislature to a single 120-seat chamber; and maintaining a system of elections through party lists. The new constitution also contained many provisions designed to centralize power and liberalize the economy.

On October 31, 1993, more than 55 percent of Peruvian voters gave their support to the draft constitution through a popular referendum. While supporters hailed the referendum as an affirmation of Fujimori's mandate, critics cited a high number of abstentions and a fairly narrow margin of approval as indicators of significant dissatisfaction with the new constitution. Many opposition groups also complained that the government had used state resources during the referendum campaign. After a six-week delay in the official announcement of the results of the referendum, some even accused the government of fraud, including one member of the *Jurado Nacional des Elections* (JNE).

Following the referendum and the grudging acceptance of it by the international community, international investors returned to Peru and the country experienced substantial economic growth over the next several years. Fujimori's popularity at home continued to benefit both from his success in controlling political violence and his restoration of economic stability to the country. Meanwhile, the Fujimori government continued to implement policies that centralized power in the executive branch and weakened the role of local government.

In August 1994, the CCD enacted an electoral law for the 1995 presidential and legislative elections. The 1995 elections were the first to be held under the single electoral district "*distrito electoral unico*" system, which required each party to form one national list of 120 candidates for the unicameral national congress. This system encouraged candidates to launch national, rather than regional campaigns, and removed their incentive to focus on local issues. As a result, it tends to favor candidates from Lima, where almost one third of the

electorate lives. In addition, critics complain that the *distrito unico* does little to foster accountability, since elected officials do not actually represent a local constituency.

The 1995 Elections

The frontrunner in the 1995 presidential election campaign was clearly President Fujimori, who was able to run for a second consecutive term thanks to the provisions of the new constitution. On April 9, 1995, Fujimori easily defeated the leading opposition candidate, former Secretary General of the United Nations Javier Perez de Cuellar, in the first round of voting. Fujimori received a decisive 64 percent of the vote, and his pro-government coalition (*Cambio-90 and Nueva Mayoria*) won an absolute majority (67 of 120 seats) in the new, unicameral congress.

For the first time in Peru's history, domestic election observers participated in the 1995 elections. With the assistance of the National Democratic Institute for International Affairs (NDI), a nonpartisan Peruvian civic group called *Transparencia* mobilized and trained approximately 9,000 volunteers to monitor polling stations around the country. *Transparencia* also conducted a parallel vote tabulation (PVT) of the election results that came within hundredths of a percentage point of the official count of the JNE. These activities helped increase the public's confidence in both the electoral process and the accuracy of the election results.

Fujimori's Second Term

Fujimori's second term of office was characterized by continuing hard line policies toward terrorist groups and an increasing use of authoritarian tactics to maintain his government's hold on power. Meanwhile, economic growth slowed significantly, decreasing from an annual average of 9 percent to only 1 percent in 1998. Although Fujimori's approval ratings declined from the extremely high levels he maintained throughout his first term, his counter-terrorism tactics continue to earn the President approval among the population.

Not long after Fujimori's 1995 reelection, it became clear that the President was likely to seek a third term of office. In August 1996, the pro-government coalition in congress took a significant step to ensure that Fujimori's candidacy could not be blocked by the courts. Congress passed a controversial law called the "Law of Authentic Interpretation," purportedly to clarify the presidential reelection provision set forth under the 1993 constitution. Essentially, the law stated that Fujimori's first term of office was not governed by the new constitution, meaning that he would be eligible to run for a second term as president in 2000.

This legislation immediately sparked a wave of protest among opposition leaders, who argued that since the new constitution took effect with two years remaining of Fujimori's first term, he had already served two consecutive terms as president. In September 1996, a group led

by the civic organization, *Foro Democrático*², began a campaign to obtain the necessary signatures (10 percent of registered voters) to hold a national referendum on the reelection issue. This initiative resulted in a protracted power struggle between two of Peru's three electoral bodies: the *Jurado Nacional de Elecciones* (JNE) - National Elections Board and the *Oficina Nacional de Procesos Electorales* (ONPE) - National Office of Electoral Processes³. In response to *Foro Democrático's* request for referendum petition forms, the ONPE ruled that *Foro* must abide by a law⁴ that requires all referendum initiatives to be previously approved by congress. The JNE initially declared this law to be inapplicable, but eventually reversed its decision after *Foro* had collected the necessary signatures to call for a referendum. In August 1998, the JNE submitted *Foro's* petition to congress, where the *Cambio-90/Nueva Mayoría* majority voted against the referendum initiative.

During the same time period, the Constitutional Tribunal was deliberating the constitutionality of the so-called Law of Authentic Interpretation. In January 1997, three of the seven judges on the Tribunal issued a ruling that the law was "inapplicable" to the question of the potential candidacy of the current head of state. The other four judges abstained from the vote. Soon after this ruling, several pro-government legislators introduced a motion in congress to impeach four of the Constitutional Tribunal judges, including the three who had issued the abovementioned ruling. On May 29, 1997 congress voted to remove these three judges, leaving the Tribunal with only four active judges. After that, the Constitutional Tribunal was essentially powerless, as the vote of six judges is required to declare a law unconstitutional.

Since the fall of President Fujimori, a number of videos filmed in the offices of the National Intelligence Service (SIN) have provided definitive proof of the overt manipulation of the events described above by Vladimiro Montesinos and the Fujimori government. Through bribery and intimidation of both congresspeople and judges, including members of the National Election Tribunal, the government conspired to block the referendum initiative and thus ensure President Fujimori's candidacy in 2000.

Throughout its second term, the Fujimori administration was also implicated in a number of incidents involving harassment and intimidation of independent Peruvian journalists. The most well-known case was that of Israeli-born journalist Baruch Ivcher, who lost control of Channel Two and had his citizenship revoked after broadcasting programs critical of the Fujimori government. In yet another controversial decision, President Fujimori announced in

² *Foro Democrático* is a citizens' association that was founded in 1993 to support democracy in Peru. The group is made up of Peruvians from various political tendencies, including representatives from several of the main opposition parties. Since *Foro's* failed referendum initiative, the group has been less vocal and currently receives little coverage in the press.

³ See Section III of this briefing paper for more information on the electoral authorities.

⁴ Law 26592 (*Ley de Derechos de participación y Control Ciudadano*), known as Ley Sirura III, passed April 11, 1996. This law provides that any referendum initiative must receive prior approval by congress with a minimum of 48 votes.

July 1999 that Peru would no longer be subject to the jurisdiction of the Inter-American Court of Human Rights.

III. The 2000 Elections

Monitoring the 2000 Electoral Process

Given the controversial chain of events leading to Fujimori's candidacy and the lack of a level playing field from the outset, NDI and The Carter Center (TCC) agreed to organize a comprehensive monitoring effort for the 2000 elections, focusing on the critical pre-election period. Prior to the voting on April 9, 2000, NDI and TCC organized three high-level pre-election assessment missions and opened a Lima office in January 2000 to provide in-country monitoring of electoral developments.

Throughout the pre-election period, NDI and TCC identified a number of environmental concerns that were undermining public confidence in the election process. These issues included: lack of access to the media for opposition candidates; pro-government media bias, particularly in the broadcast media; smear campaigns in the tabloid press against opposition candidates and others critical of the government; incidents of intimidation of opposition leaders and their supporters by the national tax agency (SUNAT); actions by state security agencies to harass and intimidate opposition leaders; the misuse of state resources for electoral advantage, often by linking state aid programs to the *Peru 2000* campaign; falsification of signatures to qualify one of the parties in the *Peru 2000* alliance; widespread impunity for perpetrators of electoral violations; and a general lack of confidence in the neutrality of the election authorities.⁵

One encouraging aspect of the flawed election campaign was the unprecedented mobilization of Peruvian watchdog groups, such as *Transparencia*, in cooperation with concerned members of the international community, to protest the grave flaws in the electoral process. Unfortunately, despite the efforts of these observer groups to urge improvements in the process, and a number of measures taken by the government to address their concerns, neither the timeliness nor the scope of the government's response was sufficient to overcome the irreparable damage that had accumulated during the course of the campaign.

The fundamentally flawed campaign period culminated in an electoral crisis following the first round of the elections on April 9. Unexplained delays in the vote tabulation process and a lack of transparency in the computer systems of the *Oficina Nacional de Procesos Electorales* (National Electoral Processes Office – ONPE) contributed to suspicion that the election authorities were manipulating the results of the April 9 voting. Political tensions increased as the vote tally showed incumbent president and candidate Alberto Fujimori inching closer and closer to the 50 percent needed for a first round victory. Supporters of leading opposition candidate Alejandro Toledo staged mass demonstrations in protest of the perceived election fraud, and the international community urged the government to accept a run-off election, based on reliable,

⁵ For more information on electoral irregularities during the campaign period, please see the NDI/TCC Peru Election reports posted on NDI's web page at www.ndi.org.

independent projections of the results. The results forecast by several independent vote counts, including *Transparencia*'s parallel vote tabulation, were eventually confirmed by the ONPE, and a run-off election was scheduled for May 28.

The Second Round

Between the first and second rounds, working groups were formed under the auspices of the OAS to propose necessary improvements to the process. However, the election authorities did not properly implement the proposals that emerged. As a result, the OAS recommended that the election date be postponed, and presidential candidate Alejandro Toledo declared that unless the elections were delayed for approximately four weeks, he would not participate. After the *Jurado Nacional de Elecciones* (JNE) ruled that the election date could not be changed, most Peruvian and international observers, including the joint NDI/Carter Center mission, decided not to observe the May 28 electoral exercise. In addition, Dr. Toledo urged his supporters to boycott the vote or to purposefully spoil their ballots.

According to the official results that were not independently observed, President Fujimori, running unopposed, garnered approximately 51 percent of the votes cast on May 28. Given the circumstances, this electoral exercise could not be considered a genuine expression of the will of the people. At a meeting of the OAS General Assembly on June 4 and 5, the foreign ministers issued a strongly worded resolution expressing concern that “the credibility of both the process and the outcome of those [May 28] elections has been undermined by persisting reports of irregularities....” The OAS subsequently established a permanent mission in Peru to explore ways of strengthening democratic institutions through an inclusive dialogue incorporating representatives of the government, the opposition and civil society.

The Post-Election Crisis of Legitimacy

Prior to the visit of a high-level OAS mission to Lima in July, many Peruvian civil society organizations proposed reforms and suggested conditions under which a credible dialogue might take place. A group of opposition parties identified four priority measures that should be taken by the government as signs of its commitment to undertake substantive reforms. These included: the return of Peru to the jurisdiction of the Inter-American Court for Human Rights; the restoration of Peru's Constitutional Tribunal; the return of control over television channels 2 and 13 to their rightful owners; and the departure of intelligence advisor Vladimiro Montesinos from Peruvian politics. The OAS mission, led by Secretary General of the OAS Cesar Gaviria and Canadian Foreign Minister Lloyd Axworthy, ultimately submitted a list of 29 recommended reforms to improve the state of democracy in Peru.

Unfortunately, just as civil society and opposition parties were working to promote democratic reforms in Peru, the Peruvian government appeared to be working behind the scenes to further consolidate its power. Between the date of the election and the date of the presidential inauguration, 18 congresspeople were mysteriously persuaded to switch their party affiliation to the political grouping of Peru 2000. Several congresspeople reported that high-ranking military officials had attempted to bribe them to switch parties, and many suspected that the intelligence services were behind this covert campaign to secure a majority in Congress. Although only 52 congresspeople were originally elected under President Fujimori's alliance, the *Peru 2000* ticket won 70 votes when Congress elected its leadership on July 25.

On July 28, 2000, President Fujimori took his oath of office for a third five-year term as President. In the weeks preceding the inauguration, the united democratic forces in Peru, led by former presidential candidate Alejandro Toledo, organized a march to protest the President's inauguration and call for a restoration of democracy to Peru. Reports indicate that at the height of the protests, there were approximately 100,000 marchers in downtown Lima, along with nearly 30,000 troops and more than 30 tanks deployed by the government to intimidate the demonstrators. On the day of the inauguration, deputies from the *Peru 2000* alliance participated fully in the inauguration proceedings. However, nearly all of the opposition deputies protested the proceedings by wearing gas masks and walking out of the chamber before President Fujimori took the oath of office. The demonstrations inside and outside of Congress illustrated the extreme polarization of Peruvian society as a result of the 2000 election process.

Following the OAS High Level Mission, a permanent mission of the OAS was established in Peru to facilitate the implementation of democratic reforms in Peru. To this end, the OAS established a "*Mesa de Dialogo*," made up of members of political parties, the government and civil society. It was agreed that all reforms should be discussed at the negotiating table and that recommendations should then be submitted to Congress for approval.

Scandals Break and Fujimori Resigns

In late August, Vladimiro Montesinos made a rare public appearance at a press conference with President Fujimori to announce that the intelligence services had uncovered a

ring responsible for trafficking arms to a guerilla group (the FARC) in Colombia. However, Colombian officials subsequently reported that the Peruvian government had been aware of the existence of the trafficking ring for more than a year, and evidence quickly surfaced implicating high-ranking military officials in the scandal.

Then, on September 14, a Congressman and leader of the opposition party *Frente Independiente Moralizador*, Fernando Olivera, held a press conference at which he released a video tape showing Vladimiro Montesinos (head of the SIN) paying Congressman Alberto Kouri \$15,000 to switch his party affiliation in Congress. Kouri was originally elected as a representative of the opposition party led by Alejandro Toledo, *Peru Posible*. This video provided the first incontrovertible evidence that Montesinos was personally manipulating the legislative branch of government through direct bribes to elected officials. The day after the video was released, the opposition parties issued a declaration that they would suspend their participation in the OAS *Mesa de Diálogo* until Montesinos was detained and investigated.

Lacking a popular mandate and facing intensified political polarization, President Fujimori opted to spare the country the trauma of a more protracted crisis. In a taped, televised address on September 16, the President announced that he would deactivate the National Intelligence Services and immediately call for new elections to replace the current government. Although he did not specify a timetable for the new elections, he indicated that they should be organized in the shortest possible term.

Since Fujimori's call for new elections, the balance of power in Peru has shifted dramatically. Just over two months after his unexpected September announcement, President Fujimori abruptly resigned the presidency from Japan, where he has said he will remain indefinitely. With both Vice Presidential offices also vacated by the resignations of First Vice President Tudela and Second Vice President Marquez, the stage was set for the newly elected opposition President of Congress, Valentin Paniagua, to assume the Presidency of Peru.

Shortly after taking his oath of office, President Paniagua appointed a highly respected Cabinet led by former Secretary General of the United Nations and former presidential candidate Javier Perez de Cuellar. The other Cabinet ministers have been praised as both technically competent and impartial, and the transitional government has maintained high public approval ratings throughout the electoral campaign. In fact, due to his exemplary performance, many Peruvians say that they would like to see President Paniagua continue in office rather than electing a new president.

Agreements reached through the OAS-sponsored dialogue were adopted by Congress to establish the necessary framework for an extra-constitutional election process. One of the most important of these agreements, it would appear in retrospect, was the definition of a mechanism to replace the suspicious former head of the National Election Processes Office (ONPE) with a respected, independent figure. More information about the Peruvian election authorities is outlined below.

IV. Legal Framework

Voting in Peru is compulsory for all citizens 18 years and over, but members of the armed forces and the National Police are disqualified from voting.

Peru's electoral system is governed by the 1993 Constitution and Organic Election Law 26859, which has been in effect since October 1, 1997. In accordance with this law, Peru holds elections for President, Vice-President and for all seats in the 120-member unicameral congress once every five years. This system is called a "national lists" proportional representation system, meaning that the entire country was treated as one electoral district. On election day, voters chose one slate of 120 candidates, casting a preferential vote for no more than two candidates on that list. Critics of the system claimed that it further centralized political power in Lima and effectively denied citizens in many provinces direct representation in Congress.

Prior to 1993, Peru's legislature, like almost all legislatures around the world, was elected on the basis of a multiple district system. Many Peruvian and international election experts hoped that when the opposition regained control of Congress in December, the legislature would vote to reinstate a multiple district electoral system for the 2001 elections. In a controversial secret vote on December 5, 2000, the plenary session voted to maintain the single district system. This decision caused widespread discontent among much of the population, and a motion was made before the Constitutional Tribunal to declare the single district law unconstitutional. On December 27, Congress reopened the debate on the electoral system. This time, no members requested a secret vote, and 69 of 120 legislators voted to change the system to one with multiple electoral districts. There were 9 votes against the proposal and 20 abstentions.

Under the new system, there are 25 electoral districts, one for each geographic department plus one for the constitutional province of Callao. Each department is automatically assigned one seat (25), and the remaining 95 seats are distributed proportionally according to the number of voters in each district. Peruvians abroad are considered part of the Lima district. There is still an optional, double preferential vote for congressional candidates, except in the district with only one congressperson (Madre de Dios), where there will only be a single preferential vote.

Each political group or alliance registered with the JNE can only register one list of congressional candidates per electoral district with the corresponding JEE. This list must include a number of candidates equal to the number of congressional seats in that district. In districts with fewer than three congresspeople, parties were allowed to register a list of three candidates. Candidates may only appear on one list and cannot run in more than one electoral district. Each congressional list must include a minimum of 30% female candidates. This quota was increased from the previously established 25% quota, active during last year's election.

Electoral legislation only provides vague references to the financing of electoral campaigns. When political groups register their lists, they are requested to project their campaign expenses and describe their funding sources. Within 60 days of the final declaration of election results, the election authorities must issue an official statement detailing campaign expenditures of all competing political organizations. However, the law does not provide for any sanctions to punish those groups that do not comply with this regulation. On February 12, 2001, the JNE issued a resolution that calls on political groups to present a more detailed statement of their

sources of campaign funding and its intended uses (i.e. specific media outlets to be contracted). Despite the existence of this resolution and numerous appeals to the parties from the President of the JNE, only two political groups have presented financial statements to the JNE. Neither of these statements has been accepted as meeting the requirements of the new resolution.

The Electoral Law contains various provisions regarding the use of state resources and the behavior of public officials during the campaign period. For example, the government cannot use official publications or state-owned media outlets to distribute political propaganda in favor of or in opposition to any political organization or candidate. In recognition of the blatant violations of this norm during the 2000 election process, the Defensoria del Pueblo (Ombudsman's Office) has made the monitoring of state neutrality with respect to the election process the priority of its electoral supervision effort this year.

To allow all political organizations equal opportunities to access media outlets, the Election Law states that beginning one month before the elections, the ONPE will provide political organizations with 30 minutes of time per day for programming in state-controlled media. Given the many problems that surfaced with respect to media coverage of last year's campaign, participants in the OAS negotiation process agreed that the Election Law should be modified to help ensure all candidates equal access to the media. They recommended that the Election Law be amended to provide each political group with 10 minutes of free media time per day on all national (non-cable) radio and television stations, beginning 60 days before the election and continuing through April 6. These free TV and radio spots (*franja electoral*) were divided between all registered political groups through a public, random selection process carried out by the ONPE and supervised by the JNE.

The Constitutional Tribunal

The three judges who were removed from the Constitutional Tribunal by Congress in 1997 were officially reinstated shortly after Valentin Paniagua assumed the Presidency of Peru. On December 11, 2000, Juan Antonio Aguirre Roca, one of the formerly deposed magistrates, was elected President of the Constitutional Tribunal.

V. Electoral Authorities

The Constitution establishes three electoral bodies to oversee and organize elections in Peru: the *Jurado Nacional de Elecciones* (JNE) - National Elections Board; the *Oficina Nacional de Procesos Electorales* (ONPE) - National Office of Electoral Processes; and the *Registro Nacional de Identificación y Estado Civil* (RENIEC) - National Identification and Civil Status Registry. According to the Constitution, each of these bodies is autonomous, but they are required to coordinate through a *Comite de Coordinación Electoral* (CCE) - Electoral Coordination Committee.

National Elections Board (JNE)

The JNE represents the judicial power within Peru's electoral system. It is responsible for ensuring that the electoral process conforms to law, and serves as the final arbiter of legality

with regard to electoral questions or complaints. Decisions of the JNE on electoral matters cannot be reversed by any other judicial body. The JNE is made up of five members elected by five institutionally-based groups: active and retired members of the Supreme Court; active and retired members of the Public Prosecutors' Office; members of the Lima Bar Association; current or former deans of the law faculties of public universities; and current or former deans of the law faculties of private universities. A May 1998 amendment passed by Congress required the vote of four of the five JNE members for any JNE decision to take effect.

This year, Manuel Sánchez-Palacios replaced the former President of the JNE, Alpio Montes de Oca, who has since been implicated in the corruption of the former regime. Montes de Oca appeared in several videos with Vladimiro Montesinos accepting money and other favors in exchange for cooperation with the Fujimori government in blocking the referendum initiative and allowing Fujimori's candidacy for a third term. In addition, JNE magistrate Carlos Bringas, who was questioned for status as a provisional judge and for his apparent partiality during the 2000 election process, resigned this year and was replaced by Adelaide Bolivar.

Special Election Boards (*Jurado Electoral Especial* - JEEs) are temporary electoral bodies established at the regional level to help oversee the electoral process. Shortly after Congress voted to change to a multiple district electoral system, the JNE announced that 49 JEEs would be in operation for the 2001 elections. Within their jurisdictions, the JEEs serve the following functions: approving or rejecting challenges to candidate registrations; ruling on objections to poll workers; ruling on challenges during the vote or vote count; and, subject to appeal, ruling to invalidate an election. After the final election results have been announced and the JEEs have submitted a final report to the JNE, the JEEs' responsibilities are terminated.

National Office of Electoral Processes (ONPE)

The ONPE is charged with planning, organizing and implementing the electoral process. The specific duties of the ONPE include: preparing and distributing election materials; protecting the free exercise of the right to vote; working with RENIEC to finalize the voter registration list; coordinating with the JNE to provide information regarding the candidate registration process; establishing procedures for election observation; training polling station personnel; and providing timely information on election results. The ONPE also establishes temporary bodies at the district level that function throughout the electoral process. The *Oficinas Descentralizadas de Procesos Electorales* - Decentralized Offices of Electoral Processes (ODPE) are closed upon the termination of the electoral process, just like the JEEs.

The ONPE was at the center of much of the controversy during last year's election process, due to a lack of both transparency and competency in the administration of the process. With good reason, public confidence in the institution was consequently extremely low. In November 2000, the *Consejo Nacional de la Magistratura* (CNM) removed Jose Portillo from his position as head of the ONPE, ruling that he was negligent in the administration of the 2000 elections. As agreed to in the OAS *Mesa de Dialogo*, Portillo's replacement was selected from a slate of three candidates submitted to the CNM by the Peruvian Congress. In the first week of December, the CNM selected Fernando Tuesta, a reputable electoral expert, as the new head of the ONPE. Tuesta assumed his position at the head of the ONPE just days after being selected,

with only four months remaining until the April elections. In addition to the immense task of organizing an extraordinary election process in an extremely short time frame, Fernando Tuesta has also had to work hard to reestablish public confidence in the neutrality and competence of the “new ONPE.”

National Identification and Civil Status Registry (RENIEC)

RENIEC is responsible for maintaining the national registry of citizen identification and issuing identity documents to be presented by voters on election day. RENIEC also maintains and updates the national voter registration list. The director of RENIEC, Celedonio Mendez Valdivia, was appointed in August 1998 after his predecessor, Julio Vargas Prada, was removed on charges of mismanagement and corruption. RENIEC is in the process of replacing the old *libreta electoral* with a new voter identification document known as the *Documento Nacional de Identidad* (DNI), which has caused some confusion among the population. For the 2000 elections, and again for the upcoming 2001 elections, RENIEC allows voters to present either identification document at the polls.

Just as they did last year, *Transparencia* signed an agreement with RENIEC to conduct an audit of the voter registry. The main purpose of this audit is to ensure that there are no names of deceased persons or military officers included on the list. Horacio Boneo, an elections expert formerly with the United Nations, assisted *Transparencia* with this analysis. The report concluded that significant improvements had been made to the voter list since last year, and that its remaining problems were within an acceptable margin of error.

VI. Political Parties and Candidates

Organized political parties have lost an immense amount of support over the past ten years in Peru. Various movements have emerged from this vacuum of political institutions, but they typically lack a wide support base or clear ideological foundation. Many of these new movements do not even wish to establish a more traditional party organization, given the disrepute of the traditional parties among the population.

For the 2000 elections, there were two ways for groups to qualify for legal status: 1) having received at least 5 percent of the national vote in the previous (1995) general election; 2) collecting the signatures of at least 4 percent of all eligible voters, based on the number of voters registered for the previous elections. For the 2000 elections, the required number of signatures for legal recognition was 496,847. For the 2001 elections, the political groups currently represented in Congress had the right to automatically reregister for the next elections. All other groups had to present a list of signatures equal to just one percent of the population (120,000) in order to register. As a result of the signature falsification scandal involving the political group *Frente Nacional Independiente Peru 2000* during the 2000 elections, RENIEC was made responsible for reviewing the lists of signatures this year rather than the ONPE.⁶

⁶ The National Front Peru 2000 was one of the four political groups that made up the “Peru 2000” Alliance, which supported President Fujimori’s candidacy and submitted a joint candidate list for Congress. A number of ONPE officials were implicated in the signature falsification scandal, although the charges were never fully investigated or proven.

Prospective political contestants collected approximately 6.8 million signatures, of which approximately only 1.8 million were ruled valid. Political parties indicated that they must collect up to five times the required number of signatures to ensure that the minimum valid number will be met. Even though the law allows citizens to sign for only one party seeking qualification for a given election, RENIEC reports that many citizens sign multiple times. As a result of these problems, political parties that did not succeed in qualifying for the ballot complain that they were not given enough time to collect the necessary number of signatures for the 2001 elections. Approximately 360 groups took out petitions for ballot qualification, while 33 returned them, and only three new parties were ultimately accepted for the ballot. In addition, 18 presidential candidates applied for ballot qualification, while 10 were approved. Early on in the campaign, two presidential candidates pulled out of the race, leaving a total of eight candidates competing for the presidency.

The deadline for registered political parties and groups to submit their candidate lists for Congress was February 7, 2001. The JNE has since announced that there are 314 congressional lists officially registered for the elections, representing 13 political movements and including nearly 1,600 candidates. Seven groups presented candidates in all 25 electoral departments: *Accion Popular*, *APRA*, *FIM*, *Solucion Popular*, *Somos Peru*, *Todos por la Victoria* and *Unidad Nacional*.

The leading presidential candidates are currently Alejandro Toledo, of *Peru Posible*, Lourdes Flores Nano, of *Unidad Nacional* (National Unity) and former President of Peru Alan Garcia (1985 - 1990), of the APRA party. Of the three, only Garcia represents a traditional political party. Toledo created *Peru Posible* to present his presidential candidacy in 1995, although the party did not really establish a national structure until last year's election process. Flores Nano was formerly a Congresswoman and leader of the Christian Democratic party in Peru, but she opted to establish a broader alliance (Unidad Nacional) to launch her presidential campaign. This is just another example of the limited appeal of traditional political parties in Peru. You will find more information in your briefing materials on all eight presidential candidates and their political groups.



**STATEMENT OF THE NATIONAL DEMOCRATIC INSTITUTE (NDI)/CARTER
CENTER PRE-ELECTION DELEGATION TO PERU**

Lima, January 26, 2001

This statement is offered by an international pre-election delegation to Peru, organized jointly by the National Democratic Institute for International Affairs (NDI) and The Carter Center. The delegation visited Peru from January 18 through January 26, 2001, and was led by former President of Guatemala, Ramiro de Leon Carpio. This was the sixth multinational NDI/Carter Center delegation to Peru since November 1999 and the first of a series of delegations to be organized for the 2001 election process. In addition, the National Democratic Institute and The Carter Center have visited Peru on a number of occasions in the last five months and have followed developments leading to the new elections and the recent change of government.

NDI and The Carter Center will maintain a continuous presence in Peru throughout the 2001 election process. This joint effort will coordinate closely with missions of the Organization of American States (OAS), European Union and other international organizations, as well as with efforts of domestic organizations, such as *Transparencia*, the Ombudsman's Office (*Defensoria del Pueblo*) and others to monitor and promote a democratic election process in Peru.

The delegation held intensive meetings with a wide range of Peruvian leaders, including: the President of the Republic Valentin Paniagua; the members of the JNE and the heads of ONPE and RENIEC; the Minister of Justice; the Minister of Defense and the Commanders of all three branches of the armed forces; leaders of the Congress; the *Defensoria del Pueblo*; 14 of the prospective candidates for President or their representatives; representatives of the news media and public opinion research organizations; civic and religious leaders, including leaders of *Transparencia*; the Permanent Secretary of the High Level OAS Mission in Peru Eduardo Latorre and other representatives of the international community. Presented below is a summary of the delegation's observations. Recommendations are presented at the end of this statement.

VI. SUMMARY OF OBSERVATIONS

Peru is in the midst of dramatic, positive changes in its democratic development. The environment surrounding the 2001 extraordinary presidential and parliamentary elections is fundamentally different from that of last year. All of those with whom the delegation met

expressed a high degree of confidence in the integrity of the new leaders of government and of the electoral authorities.

The conditions for organizing genuine democratic elections have been established in Peru, and the prospects for realizing them are strong. At the same time, important challenges face the election process in the weeks and months ahead that should not be underestimated.

These challenges will require concerted efforts by all electoral authorities and active support by all branches of government. They will require sufficient tolerance and respect among candidates and political parties towards each other and will require them to keep the long-term national interests in mind as they pursue their immediate goal of winning public office. The challenges also will require responsible actions by the news media and broad citizen participation – a “citizenization” of the elections – to support a democratic process and to provide a mandate for transparent, accountable governance. The delegation believes that these things can be accomplished.

The circumstances surrounding last year’s elections in Peru were among the worst ever observed in this hemisphere by NDI and The Carter Center. It is clear that the Fujimori government perpetrated election fraud. As a result, those elections failed to provide the Fujimori government with a mandate based on an expression of the will of the people. The lack of a democratic mandate contributed to that government’s collapse under the weight of scandal.

Incontrovertible evidence, more of which is still being uncovered, shows that political corruption committed by the former regime undermined democratic institutions and processes that are essential to national development. Fortunately, the process of dialogue developed under the auspices of the OAS in the post-election period provided a basis for important reforms already achieved, as well as improved channels of communication needed to advance the process in the period ahead.

Peru is now presented with an exceptional opportunity to expose and dismantle the network of intimidation and corruption that subverted its democracy. Important steps are being taken by the government, Congress, the judiciary and electoral authorities to eliminate corruption in the political process. Actions by citizens to take ownership of the process would not only strengthen the mandate of government but also would confirm that safeguards are being put in place to ensure that the people’s will may never again be denied.

POSITIVE DEVELOPMENTS IN THE ELECTORAL ENVIRONMENT

The following are among the positive developments noted by the delegation.

- An independent prosecutor and a special congressional commission have been investigating the massive network of corruption used by the Fujimori regime to maintain its power. This network is being revealed in large part through video tapes compiled by the former head of the intelligence service, Vladimiro Montesinos, who is now a fugitive from justice.

- The culture of impunity has been further broken by investigations of the military's connection to the network of corruption. More than 40 generals have been separated from military service as part of efforts to "rationalize and re-institutionalize" the military.
- Steps are being taken to end the provisional status of judges and provisional mechanisms that undermined the independence of the judiciary.
 - The three justices of the Constitutional Tribunal, who were wrongly removed from office due to their issuing an opinion against a law which authorized then-President Fujimori to seek a third term, have been reinstated to the Tribunal.
 - Peru has returned to the jurisdiction of the Inter-American Court of Human Rights.
 - News media are operating with new openness and in the absence of political persecution.
- Television Channels 2 and 13 have been returned to their owners, and Radio 1160 expects to reacquire its transmitters soon.
 - Registered political parties are to be provided free of charge 10 minutes per day on the broadcast media, during the 60 days prior to the elections; this free time (*franja electoral*) is to be guaranteed by public funds to be provided by the ONPE.
 - Government advertisements, with limited exceptions, are to halt for the 60 days prior to the elections.
 - Civic, professional and religious organizations are planning to monitor the election process, to educate and to mobilize greater citizen participation.
- The military has demonstrated its professionalism and respect for civilian authority through the transition to the new government. The President, the Minister of Defense and the Commanders of the three branches of the armed forces have ordered political neutrality of military units. The Minister and the Commanders made a public commitment to support democracy and to maintain political neutrality at an unprecedented news conference this week, which was held with the NDI/Carter Center delegation.
 - The JNE has been reconstituted, and it is taking steps to ensure the integrity of the election process, such as calling for an examination of the electoral registry (*padron*).
 - The ONPE's leadership has been replaced, and the ONPE is reorganizing itself as it works to prepare the elections. A new spirit of openness has been established at all of the electoral authorities, including the initiation of a coordinating group within the ONPE for the political parties (*mesa de coordinacion con los partidos politicos*).
- *Transparencia* examined the electoral registry produced by RENIEC and determined that it is sound. The examination was conducted through an agreement with the JNE.
 - Candidates and political parties have been registered for the elections, even though some questions have been raised about the signature collection and verification processes.
 - After an intense public discussion, a political agreement was reached to restructure the election system into multiple districts.

CHALLENGES IN THE 2001 ELECTORAL PROCESS

The delegation noted that the 2001 electoral process presents significant challenges, including the following.

- The elections are only 71 days away, which necessitates a tight election calendar (*cronograma electoral*). With great effort and if there are no delays, the ONPE should be able to organize elections properly for April 8. However, if further changes are made to the electoral process that require additional time, it will be extraordinarily difficult for the ONPE to meet the requirements of an April 8 electoral timetable.
- There are 10 certified candidates for the President of the Republic. Only one will win the office, and only two will enter the second round run-off if none obtains 50 percent plus one vote on April 8. Electoral competition for the Presidency therefore may become antagonistic, which could also be true for Congressional seats in the country's 25 new electoral districts. Nonetheless, the political environment remains fragile due to extreme political polarization in the recent past. The political contestants therefore will have to find ways to maintain civility in their respective campaigns.
- The past regime created an intricate and far-reaching web of corruption. Revelations about the corruption are continuing day-by-day. While investigations and prosecutions of those involved in the corruption are necessary, the potential exists for excesses that could affect innocent people. In addition, should revelations continue over a protracted period, the public could become distracted or even alienated from the election process. Balancing these competing interests will require careful attention.
- Last year's elections suffered from a number of manipulations, including of the media and of election results. As a consequence, a legal prohibition against publishing opinion polls about candidate choices will be enforced for one week before the elections; pollsters will be required to register with the JNE; no exit polls will be allowed on election day, and no independent vote projections (*conteos rapidos*) may be published until the ONPE has released official results or 10:00 p.m. arrives on election night. The combination of these restrictions will prevent the public from receiving available, relevant information. With this news blackout, various political contestants could claim victory early on election night, which could cause confusion and undermine confidence in the election process. It would be important to find a less restrictive balance more favorable to allowing the public to receive timely, relevant information from the media until close to election day and soon after the polls close.
- Many important steps have been taken in Peru to prevent manipulation of election and political processes. Some officials from the old regime, who rigged the last elections, however, may seek to sow confusion or obstruct the 2001 election. Maximum efforts to organize the elections properly and to ensure their integrity by the election authorities, political contestants, mass media and citizens organizations will be the best way to prevent attempts to undermine the process.
- Organizing genuine democratic elections this year will require the mobilization of tens of thousands of citizens. Broad campaigns will be necessary to inform citizens of the need to participate in the election process as voters, political party pollwatchers (*personeros*); electoral officials (*miembros de mesa*) and as nonpartisan election monitors (*observadores*). The mass communications media will be central to a successful citizen

mobilization. Those who control media outlets therefore will have to find ways to address the national interests for citizen participation.

- While great efforts will be needed to organize successful elections, longer-term issues for democratic and economic development will extend well beyond the elections. Political contestants, the mass media and citizens themselves therefore will need to find ways to introduce into the election campaign such longer-term issues.
- According to electoral legislation, polling stations (*mesas de votacion*) may have no more than 300 registered voters. In practice, tables rarely have more than 200 voters, resulting in approximately 89,000 polling stations in Peru. This creates a huge burden for recruiting, training and deploying election officials, political party pollwatchers and nonpartisan election monitors. It is common in other countries to have many more voters assigned to each polling station. Increasing the number of voters per polling station by two or even three times, where distances and populations allow an increase, would improve the capacities of electoral authorities, parties and candidates and citizen groups to staff the stations. Although not approved for 2001, this should be considered for elections after this year.

In addition to these challenges to the election process, the delegation noted a concern raised by political parties that did not succeed in qualifying for the ballot. Approximately 360 groups took out petitions for ballot qualification, while 33 returned them, and three new parties were accepted for the ballot. In addition, 18 presidential candidates applied for ballot qualification, while 10 were approved.

Prospective political contestants collected approximately 6.8 million signatures, of which approximately only 1.8 million were ruled valid. Political parties indicated that they must collect up to five times the required number of signatures to ensure that the minimum valid number will be met. Even though the law allows citizens to sign for only one party seeking qualification for a given election, RENIEC reports that many citizens sign multiple times. The state's interest in limiting an excessive proliferation of political parties has to be balanced against citizens' rights to express support for political pluralism and to be free from intimidation. The same applies with respect to the rights of political parties and candidates to stand for public office free from overly burdensome obstacles. These issues merit further consideration after the elections.

THE DELEGATION AND ITS WORK

This delegation included: Hon. Ramiro de Leon Carpio, President of Guatemala (1993-96) and present Vice-President of the Congress of Guatemala; Monica Jimenez de Barros, founder and for 12 years Executive Director of PARTICIPA (a Chilean nongovernmental organization dedicated to strengthening democracy) and former member of Chile's Truth and Reconciliation Commission; Charles Costello, Director of The Carter Center's Democracy Program; Patrick Merloe, NDI Senior Associate and Director of Programs on Election and Political Processes; Gerardo Le Chevallier, NDI Director for Latin America and the Caribbean; and Denis Kadima, NDI's Election Observation Coordinator for the Southern Africa

Development Community Parliamentary Forum. The delegation was joined by Luis Nunes, Project Director, and Linda Frey, Program Officer, of the NDI/Carter Center Joint Election Observation Mission in Peru.

NDI and The Carter Center are independent, nongovernmental organizations that have conducted more than 100 impartial pre-election, election-day and post-election observation delegations around the globe. The delegation was invited by the government of Peru and Peruvian civic and political leaders. The purposes of this delegation were to express the support of the international community for a democratic election process in Peru and to assess the evolving political environment surrounding the upcoming elections, as well as the state of electoral preparations.

The delegation conducted its activities according to international standards for nonpartisan international election observation and Peruvian law. NDI and The Carter Center do not seek to interfere in the election process nor, at this juncture, to make a final assessment about the over all process. Both institutions recognize that, ultimately, it will be the people of Peru who will determine the legitimacy of the elections and of the resulting government.

CONCLUSIONS AND RECOMMENDATIONS

Peru is passing through a period of rapid democratic change. The fraudulent elections of 2000 led the OAS General Assembly to pass a resolution in June on the need for democratic reform in Peru. A dialogue was then established under the auspices of the OAS (*Mesa de Dialogo y Concertacion*). Soon after the dialogue was established, corruption scandals rocked the government of then-President Fujimori. When he announced his intention to step down within one year, the dialogue led to action by the Peruvian Congress amending the Constitution and setting the 2001 extraordinary elections. The opposition gained leadership of Congress, a development that led Fujimori to attempt to resign while on a state visit to Japan, where he remains today. The new President of Congress, Valentin Paniagua, then became President of the Republic after the Congress removed Fujimori from office on grounds of moral incapacity.

It is vital to Peru's democratic development that the 2001 extraordinary elections build public confidence in government and in political and electoral processes. In this sense, it is important to do more than just meet minimum standards. Peruvian authorities, candidates and political parties, the mass media and citizen organizations should seek to achieve a process that the public and the political contestants will embrace. Therefore, these extraordinary elections merit extraordinary efforts to establish a solid foundation for Peru's democratic future.

At the same time, the 2001 election process is taking place in a compressed timeframe. The process of dialogue should continue after the elections to evaluate the strengths and weaknesses of the legal structure for the elections as well as ways to encourage citizen participation in determining further democratic reforms.

It is with this in mind and in the spirit of continuing international cooperation that the delegation offers the following recommendations.

- **1) Caution in Changing the Electoral Framework Is Warranted.** The Congress and the JNE have legitimate powers to implement changes to the electoral framework and appear to have made changes properly. The delegation recommends that caution be used in approaching any further changes that could expand the electoral timetable in significant ways without adopting a corresponding delay in the election date. The delegation suggests that the ONPE be consulted in advance of changes in the electoral framework to ascertain the potential impact of any possible changes on the electoral timetable. In addition, the delegation urges political parties and the JNE to expedite processes, such as challenges (*tachas*) to polling officials, in order to safeguard the electoral calendar as much as possible.

- **2) Civility Is Needed in the Election Campaign.** Elections provide a means for peaceful competition for public office, which nonetheless tends to foster sharp exchanges among candidates and political parties. The parties have agreed to restrict painting campaign slogans in certain places, and *Transparencia* and Prime Minister Perez de Cuellar both have proposed that agreements be reached for proper campaigning. The delegation recommends that the candidates for president and the leaders of the political parties participating in the 2001 extraordinary elections sign such agreements to respect the law, the rights of voters and each other's civil and political rights through the campaign and thereafter. The agreement should include a pledge to train their supporters in the law and a code of conduct corresponding to their agreement. The agreement could be witnessed by organizations and personalities, such as *Transparencia*, the Conference of Catholic Bishops (*Conferencia Episcopal Peruana*) and other religious, professional, business and civic organizations or leaders. That would add moral force to the agreement and send a positive signal to the population.

- **3) Timely Review Is Appropriate for Corruption Proceedings.** Careful review of the "Montesinos videos" and other material concerning the network of corruption of the prior regime is required to prevent any unfair damage to the reputations of people who may appear in those materials but who were not involved in wrongdoing. At the same time, daily release of such materials throughout the election period could distract and even alienate citizens from the election process. The delegation therefore suggests that consideration be given to applying additional professional resources so that the materials can be reviewed properly and be released in a timely fashion.

- **4) Citizens' Right to Information Is Central to Proper Elections.** Preventing undue influence on voters of inaccurate or potentially prejudicial information appears to be the basis for various legal restrictions affecting release or publication of opinion polls, exit polls and quick counts concerning election results. The right of voters to information about the elections as well as press freedoms also must be taken into account. The delegation recommends that consideration be given to dropping the registration requirement for opinion pollsters (or minimizing it), that the restriction against immediate release of quick count information be lifted, and that the limitation on publishing opinion polls be reconsidered. The delegation commends ONPE's efforts to provide real-time access to its computerized vote tabulations on election night and encourages that its computer software be tested in the presence of parties and impartial observers.

- **5) Broad Citizen Mobilization for the Election Process Is Needed.** The will of the people expressed freely through genuine elections is the basis of authority of any democratic government. This is an extension of the internationally recognized fundamental right of citizens to participate in government and public affairs, directly by standing for office or indirectly by choosing representatives. Broad citizen mobilization as voters, party pollwatchers, polling officials and impartial election monitors is therefore needed to ensure a truly democratic election process. The delegation urges the ONPE, political parties, civic, religious, business and labor organizations, as well as the mass communications media, to call on citizens to participate in monitoring the election process.

- **6) The Mass Media Should Assist Citizen Mobilization and Civic Education.** The news media is a key element to providing citizens with adequate, accurate information upon which to make a free choice at the ballot box. The media has a new opportunity to meet their responsibilities to provide accurate and balanced news coverage of political contestants and issues that affect voter choices. Professional responsibility is the key to this effort, and the delegation recommends that media outlets, as well as media and journalist associations, adopt a code of conduct for responsible coverage of the election process and the political process beyond the elections. The government and political parties reached an agreement as an outgrowth of the OAS dialogue, which provides for free broadcast media access for parties participating in the elections (*franja electoral*), to be guaranteed by public funds. This should be usable at the discretion of the parties for print media as well. In addition to this, media outlets should offer free time to civic and other groups for voter education and calls for citizen mobilization for the election process. During last year's elections, media owners provided some free time to political contestants; similar amounts could be provided to civil society groups this year.

- **7) Further Consideration Seems Warranted for Replacing Some Officials.** Many officials of the prior regime have been replaced, and it is appropriate that those with integrity remain in their posts. Suggestions have been made by political parties and others to review prefects, governors and some other officials who serve at the will of the Ministry of Interior and to replace some such people with mayors, who have an independent elected mandate. Further consideration of such measures seems warranted to protect the elections and broader political processes from those who might seek to impede proper elections. The Ombudsman's Office could play an important role in reviewing any allegations that local officials may be acting to undermine electoral-related rights and claims that the rights of such local officials could be violated by false allegations.

- **8) Dialogue about Democratic Reforms Should Continue after the Elections.** The 2001 extraordinary elections are being prepared in the context of dramatic, positive changes in Peru's democratic development. They also are taking place in a compressed timeframe and under ground-rules that were in many instances agreed in order to move quickly to establishing a government based on a popular mandate. The official components of the OAS dialogue headed by Eduardo Latorre have ended, but mechanisms such as ONPE's political party liaison meetings (*mesa de coordinacion con los partidos politicos*) and other efforts are continuing to build on the OAS process. The OAS observation mission again to be headed

by Eduardo Stein, who conducted admirably last year's OAS election mission, will undoubtedly contribute to further dialogue during the election process. The dialogue process, however, should not stop with the elections. The delegation hopes that genuine, open dialogue continues in the post-election period to frame lessons learned from these elections and address the continuing need to improve Peru's democratic process.

The delegation was heartened by the positive developments it observed and by the firm expressions of political will it received from governmental, political, military, civic and religious leaders to organize open, democratic elections. NDI and The Carter Center will continue to monitor Peru's 2001 extraordinary elections and the surrounding political environment through its representatives in Peru and future delegations. Further statements and recommendations will be released as the election process develops.



**VIII. STATEMENT OF THE NATIONAL DEMOCRATIC INSTITUTE
(NDI)/CARTER CENTER SECOND PRE-ELECTION DELEGATION TO PERU**

Lima, March 9, 2001

This statement is offered by an international pre-election delegation to Peru, organized jointly by the National Democratic Institute (NDI) and The Carter Center (TCC). The delegation visited Peru from March 5 through March 9, 2001 and was the second of two scheduled assessment missions prior to the 2001 presidential and legislative elections. NDI and TCC also opened a joint office in Lima at the end of January and will maintain a permanent presence in Peru throughout the election and post-election period. The two institutes will organize a joint international election delegation to Peru for the April 8 elections. The delegation will include approximately 30 international political leaders and electoral experts, and will be led by former Presidents Jimmy Carter of the United States and Ramiro de Leon Carpio of Guatemala, and by President of Michigan State University and former Administrator of the United States Agency for International Development, Peter McPherson.

The delegation met with a wide range of Peruvian leaders, including: the President of the *Jurado Nacional de Elecciones* (JNE) and the head of the *Oficina Nacional de Procesos Electorales* (ONPE); the President of the Cabinet of Ministers; the Minister of the Interior; the Minister of Promotion of Women and Human Development; seven of the presidential candidates or their representatives; representatives of the news media and public opinion research organizations; the *Consejo Nacional de la Magistratura*; the President of the Supreme Court; the acting *Defensor del Pueblo*; civic leaders, including leaders of *Transparencia*; and representatives of the international community.

Presented below is a summary of the second pre-election delegation's observations, followed by a series of recommendations that might be considered in the four weeks remaining before April 8.

VII. SUMMARY OF OBSERVATIONS

The delegation is pleased to reaffirm the conclusion reached by the January assessment mission that Peru's interim government has established the necessary conditions for a free, transparent and legitimate election of the next President and Congress of Peru. The delegation commends the extraordinary efforts that the government of President Valentin Paniagua has undertaken to guarantee the neutrality of state institutions, the armed forces and the forces of public order. Although faced with a short time period, the reconstituted electoral institutions have made significant progress in organizing the electoral contest and restoring citizen

confidence in the overall process. This trust is reflected in the high public approval ratings that both the President and the electoral authorities have received in recent opinion polls.

Important steps have been taken to overcome most of the specific obstacles to the conduct of a successful election identified by NDI and TCC in January. These positive developments are specified later in this report. Nevertheless, there remains some reason for concern. The abuses of the Fujimori-Montesinos regime have left a legacy of public skepticism and suspicion that Peruvians are still struggling to overcome. This climate of mistrust is being exacerbated by the increasingly competitive electoral race.

Given this challenging electoral context, all Peruvians, including political candidates, journalists, civil society leaders and the citizenry, must make a concerted effort to focus public attention on the substantive issues of the campaign and seek full cooperation to address any difficulties. As such, political leaders and organizers should avoid using tactics that could be perceived as reminiscent of last year's electoral campaign and refrain from unsubstantiated criticisms of the electoral authorities. Such actions only serve those who may wish to destabilize or discredit the entire electoral process.

The high level of interest and unprecedented collaboration of the international community in this election process demonstrate the significance of Peru's democratic transition for the hemisphere and its regional organizations. The upcoming elections provide Peru with an extraordinary opportunity to begin the collective task of building those democratic institutions that the Peruvian people desire and merit.

DEVELOPMENTS IN THE ELECTORAL ENVIRONMENT

Congressional Lists

In response to public opinion and a desire for increased accountability, Peru's one-district system was restructured into 25 districts for the 2001 elections. The deadline for the registration of congressional candidates was February 7. The JNE has since announced that there are 314 congressional lists officially registered for the elections, representing 13 political movements and including more than 1,600 candidates. Seven groups have presented candidates in all 25 electoral departments: *Accion Popular*, *APRA*, *FIM*, *Solucion Popular*, *Somos Peru*, *Todos por la Victoria* and *Unidad Nacional*.

The Election Authorities and the Electoral Timeline

Faced with an extremely tight electoral calendar, the electoral authorities are working around the clock to meet deadlines and guarantee a credible election process on April 8. While much remains to be done, a number of critical steps have already been completed, including: evaluating and replacing personnel at the JNE and the ONPE, where 78 percent of former staff have been replaced; hiring and training approximately 12,000 temporary election employees; identifying all of the *miembros de mesa* (polling station officials) who will work the polls on election day; opening 49 Decentralized Electoral Process Offices (ODPEs) and Special Election Tribunals (JEEs) nationwide; initiating the printing of the *acta-padron* (voter list and tally sheet)

and the ballots to be used on election day; designing a new software program to tabulate the election results; and submitting a copy of the new software to political party representatives and election observers for their review.

In a further demonstration of openness and transparency, both the ONPE and the JNE are making extensive use of electoral experts from around the world to achieve their common goal of a credible election process. The ONPE has put a number of safeguards in place to ensure the technical accuracy of the vote count. Private companies will carry out an independent audit of the new computer software program. In addition, the ONPE will conduct two vote simulations to test its computer systems and correct any deficiencies as necessary.

Since the visit of the first pre-election assessment mission in January, NDI and TCC have noted a number of positive developments that relate to the recommendations made by the institutes' previous delegation. These developments include:

- Seven of the eight presidential candidates signed a Pact of Civility sponsored by the civic organization, *Transparencia* and witnessed by the *Conferencia Episcopal*, the OAS, NDI/TCC and the United Nations. A Commission was created to respond to complaints raised within the context of this Agreement and to ensure continued dialogue among the political groups competing in the elections. Now, it is up to the signatories to use this forum to resolve their complaints in a responsible manner.
- Almost all of the political parties competing in the election are benefiting from free advertising time in the media (*franja electoral*), aired every evening on national television and radio stations between 8 and 11 PM.
- *Canal N* and *El Comercio* have organized a series of programs designed to give both presidential and congressional candidates access to the media and focus public attention on substantive campaign issues. Last weekend, candidates to Congress from the interior of the country had the opportunity to make brief statements to the public, which were broadcast live on *Canal N*.
- The JNE issued a resolution that requires all parties participating in the electoral process to provide a statement detailing their campaign funding, including both the sources of this funding and its intended uses. So far, only two political groups, *Unidad Nacional* and *Todos por la Victoria*, have provided this information, and only in general terms. *Transparencia* signed an agreement with the JNE to monitor the parties' use of media time during the campaign and to share the results of this media monitoring effort with the JNE to help establish transparency in campaign spending.
- The ONPE has initiated a voter education campaign that includes the use of high quality educational materials produced by the ONPE in several languages and disseminated through the mass media. The campaign is being led by 250 full-time "election promoters" (*promotores electorales*) throughout the country.
- The transitional government has completed an overhaul of state-run institutions to ensure the neutrality of public officials in the electoral process. In particular, the Ministry of the Promotion of Women and Human Development has removed and replaced all personnel linked with manipulation of food assistance programs in the past election process. The Ministry of the Interior has replaced the prefects (appointed political officials at the departmental level) in all 25 departments and is removing lower ranking officials.

- The *Defensoria del Pueblo* has established 25 mobile election teams, which are working in coordination with the *Defensoria*'s eight permanent offices around the country to supervise the electoral process at the local level. In addition, the ONPE and the *Defensoria del Pueblo* are collaborating in the operation of the recently inaugurated "Office of the Defense of the Voter," to receive electoral complaints relating to the ONPE or ONPE personnel. The *Defensor* reports that this Office has received very few substantive complaints thus far.
- The leadership of the armed forces has made a clear public commitment to preserving neutrality in the election process, although there are still some concerns about how these instructions will be carried out at the local level. Given the assurances provided by the military and the many logistical hurdles that the election authorities face, the authorities may want to consider accepting logistical support from the military where appropriate.
- The *Consejo Nacional de la Magistratura* has been reconstituted as an independent and autonomous entity and is committed to phasing out provisional judges in the judicial system.
- The Waisman Commission, charged with investigating the bank accounts and financial corruption organized by Montesinos, has released two reports since the last NDI/TCC delegation, and the Peruvian Congress has approved an extension of the mandate of the Waisman Commission until May 30.

THE DELEGATION AND ITS WORK

This delegation included: Arturo Valenzuela, Director of Latin American Studies at Georgetown University and former special assistant to President Clinton and Senior Director for Inter-American Affairs at the National Security Council; Horacio Boneo, senior consultant in democratic governance and former Director of the United Nations Electoral Assistance Division; Gerardo Le Chevallier, NDI Director for Latin America and the Caribbean; and Shelley McConnell, Associate Director of the Latin American and Caribbean Program at The Carter Center. The delegation was joined by the staff of the Election Observation Mission in Peru, Luis Nunes, Resident Project Director; Linda Frey, Deputy Resident Project Director, and Francisco Robles.

NDI and TCC are independent, nongovernmental organizations that have conducted more than 100 impartial pre-election, election-day and post-election observation delegations around the globe. The NDI/TCC Election Observation mission was invited by the government and election authorities of Peru, and by Peruvian civic and political leaders. The purposes of this pre-election assessment delegation were to express the support of the international community for a democratic election process in Peru and to assess the evolving political environment surrounding the upcoming elections, as well as the state of electoral preparations.

The delegation conducted its activities according to international standards for nonpartisan international election observation and Peruvian law. NDI and TCC do not seek to interfere in the election process nor, at this juncture, to make a final assessment about the overall process. Both institutions recognize that, ultimately, it will be the citizens of Peru who will determine the legitimacy of the elections and of the resulting government.

CONCLUSIONS AND RECOMMENDATIONS

In the spirit of continuing international cooperation, the delegation offers the following conclusions and recommendations:

- **1) Adherence to the Code of Conduct (*Pacto Civico*)**

The candidates who signed the “*Pacto Civico*” made a public commitment to focus their campaigns on substantive issues and to refrain from the tactics of harassment and intimidation that characterized last year’s fraudulent election process. Having made this admirable commitment in writing, the presidential candidates should now adhere to the Pact through their actions and ensure that their supporters do the same. Moreover, they should seek to use the Civic Pact Commission to address their concerns within the context of the campaign before publicizing these concerns in the press.
- **2) Concerns about Aggressive Behavior in the Campaign**

In the past several days, there have been several disruptive incidents of aggression directed at candidates and their supporters during campaign events. The delegation urges all political leaders to condemn such acts and prevent them from recurring. Given the recent political history of Peru, political organizers need to make special efforts not to fall into the trap of using the same tactics that were used to destabilize the democratic process in the past.
- **3) Safeguarding the Credibility of the Election Process**

The delegation has noted a problem of communication at several levels between the electoral authorities and political groups. In our experience, these problems are not unusual, and they can and should be addressed. Legitimate concerns and misunderstandings could have the unintended effect of causing unaffordable delays in the electoral timeline or increasing public skepticism. In recognition of the high levels of confidence expressed by Peruvian citizens and political candidates in the good faith of the election authorities, the delegation urges party representatives to address and clarify any concerns with regard to the election process through the appropriate channels before making them public. In return, the election authorities should maintain and strengthen the lines of communication with all groups and be as responsive as possible.
- **4) Debating Substantive Campaign Issues**

Both political groups and the media should refrain from attacking the character of candidates. Such attacks will only serve to destabilize a fragile election process. Rather than debating issues of character, the candidates should enter into a debate of substantive electoral issues such that the Peruvian electorate can make an informed choice at the polls on election day. This public debate should be structured in such a way as to allow the candidates to challenge or affirm the policies and programs of their electoral competitors.
- **5) Accurate and Timely Public Information on Election Day**

The Peruvian population is accustomed to receiving result projections shortly after the polls close at 4:00 pm. However, due to problems during last year’s elections, an agreement was reached at the OAS sponsored *Mesa de Dialogo* to restrict the release of

projections until 10 pm, or until the ONPE releases its quick count results. Now that the ONPE has decided not to conduct a quick count, these restrictions create an information vacuum on the evening of the elections. This vacuum could be filled by unreliable data with the potential for misleading the population and the political contenders. The relevant authorities should seek a solution to address this concern.

Given the unreliability of exit polls, the delegation also strongly recommends the use of quick counts (statistically accurate projections based on a sampling of actual election results) as confidence-building measures on the night of the elections and welcomes the fact that organizations such as *Transparencia* will be conducting them. We further urge that the electoral authorities make a particular effort to help validate the reliability of such quick counts and to promote the sharing and dissemination of quick count results on election night in accordance with the law. Any release of electoral projections (either exit polls or quick counts) by the media should include an explanation of the method used to obtain these results and their margin of error.

- **6) Investigations of Corruption**

The massive quantity of evidence and the far-reaching web of corruption linked to the past regime will take many months, if not years, to uncover. Of particular concern is the perception that in this electoral environment the release of the videos could be in some way manipulated for political gain. Since the purpose of these investigations is to restore the rule of law and confidence in justice, prosecutors should take special care to respect these principles and be transparent in their proceedings.

- **7) Equitable Media Coverage and Media Access**

Media coverage of the 2001 election process has demonstrated a dramatic improvement over that of last year's campaign. The free advertising and radio time provided to political groups by the Peruvian authorities represents an important and much appreciated initiative. Unfortunately, this *franja* only applies to national media outlets; consequently, congressional candidates from departments outside of Lima do not benefit from this opportunity to present their ideas to voters. In addition, the delegation received complaints that some local affiliates of the national networks were not broadcasting the *franja* simultaneously.

State-owned media should also fulfill their obligation of providing free air time to all candidates and offering reduced rates for campaign advertising. Finally, both local and national private radio and television stations could help contribute to the success of this electoral process by offering advertising time to candidates at a reasonable cost and airing voter education programs and information as a public service.

ISSUES FOR FUTURE ELECTORAL REFORM

The delegation hopes that genuine, open dialogue continues in the post-election period to frame lessons learned from these elections and address the continuing need to improve Peru's democratic process. As it would be difficult to make changes to electoral legislation at this late date, there are a number of issues that the delegation has noted as areas for future electoral reform.

- A mistake was made in calculating the number of seats to be filled by female candidates for the congressional lists of La Libertad, Ica and Callao. In these three departments, the 30 percent quota was not respected (La Libertad: 28.6 percent; Callao: 25 percent; and Ica: 25 percent). If it is not possible to solve this problem during this electoral process, the election authorities should at least acknowledge this mistake to ensure that it will be avoided in the future.
- The fee for presenting an objection (*tacha*) to a candidate for public office is extremely high, at 3,000 soles. The JNE may want to consider reducing this fee in the future. Although the money is returned if the complaint is validated, the high fee may be deterring citizens from filing legitimate complaints.
- There is a serious need for effective campaign finance legislation in Peru. This would do much to increase transparency and equity in the conduct of election campaigns.