



PERU ELECTIONS 2000

**Final Report of the
National Democratic Institute/Carter Center
Joint Election Monitoring Project**

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ACKNOWLEDGEMENTS

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EXECUTIVE SUMMARY

At the request of Peruvian civic and political leaders, and with an invitation from the Peruvian electoral authorities, the National Democratic Institute for International Affairs (NDI) and The Carter Center (TCC) agreed to organize a comprehensive international monitoring effort focusing first on the critical pre-election period. Prior to the voting on April 9, NDI and The Carter Center organized three high-level pre-election assessment missions and opened a Lima office in January 2000 to provide in-country monitoring of electoral developments.

The statements of the three pre-election delegations 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.

The findings and recommendations of the NDI/TCC election observation effort helped bolster the work of national observers, increased media coverage and public awareness of the problematic election process, and provided encouragement to the various political competitors. The Organization of American States (OAS), U.S. Department of State, U.S. Congress, White House, European Union, and others expressed formal support for the joint statements made by NDI and The Carter Center. Furthermore, by maintaining a constructive dialogue with Peruvian government and election officials throughout the election process, NDI and The Carter Center helped encourage the Peruvian government to implement specific measures aimed at improving the credibility of the electoral process.

The NDI/Carter Center observation mission worked in close cooperation with NDI's long-time Peruvian partner organization, *Transparencia*, as well as with the Ombudsman's Office (*Defensoria del Pueblo*) and the OAS Election Observation Mission. *Transparencia* produced numerous, well-documented reports of election irregularities in the months preceding the election and deployed more than 19,000 volunteer election monitors throughout the country on April 9. The *Defensoria del Pueblo* also made a critical contribution in fulfilling its mandate to help ensure that the electoral process respected human rights in accordance with Peruvian law. The OAS Election Observation Mission arrived in Peru well in advance of the first round of voting and played an extremely effective role in identifying irregularities and encouraging the government to make improvements to the process. The OAS mandate in Peru went beyond that previously exercised by OAS observation missions. For the first time, the head of the mission was given the autonomy to issue regular reports on pre-election conditions, which proved to greatly enhance the effectiveness of the mission.

An encouraging aspect of the flawed election campaign was the unprecedented mobilization of Peruvian watchdog groups and concerned members of the international community to seek a genuine, democratic election process in Peru. The sustained level of engagement and cooperation between Peruvian and international observers in Peru represented a model of the type of election observation that NDI and The Carter Center advocate worldwide. Throughout the election process, the NDI/TCC mission and *Transparencia* provided each other with mutual support, including NDI's sponsorship of several consultations between *Transparencia* and international experts on methodologies for monitoring voter registries, media monitoring and parallel vote tabulations.

Despite the combined efforts of numerous observer groups and others to urge improvements in the electoral process, and a number of measures taken by the government to address these 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. Observations of the voting and counting process by the OAS, *Defensoria del Pueblo*, *Transparencia*, *Consejo por la Paz* and others were confirmed by the experience of the NDI/Carter Center supplemental assessment team sent to Peru for the elections.

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) led many to believe 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, 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.

Several weeks after the first round, NDI and The Carter Center organized an assessment delegation prior to the second round to help focus international attention on the issues in the Peruvian election process. The NDI/Carter Center delegation and a number of other observer groups issued recommendations for necessary improvements to ensure the legitimacy and transparency of the second round. Under the auspices of the OAS, working groups were formed 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. After having invested a significant amount of time and resources to encourage a democratic election process in Peru, the international community was forced to assess its relationship with a government that suffered from a crisis of legitimacy. 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.

In an immediate post-election environment characterized by polarization and unrest, NDI and The Carter Center were asked by Peruvian election monitors, opposition and civic leaders, as well as concerned members of the international community, to help encourage a peaceful and democratic resolution of the political crisis that resulted from the failed elections. In response to these requests, NDI and The Carter Center sent a post-election delegation to Peru in July and maintained a small, in-country presence through the end of that month. During this mission, the NDI/Carter Center delegation, together with *Transparencia*, co-sponsored a forum to discuss recommendations for advancing a genuine democratic reform process in Peru.

The Peruvian election process has taught the international community important lessons that will have implications throughout the region:

- Election observers need to focus increasingly on the entire electoral process, rather than just on Election Day, because the structural and institutional framework and the political environment in which elections take place are critical parts of the overall process.
- The OAS observation mission, under Eduardo Stein’s leadership and with a relatively broad mandate, played a crucial role in Peru, setting a new and positive model for future OAS election observation missions.
- National, non-partisan observer groups, such as *Transparencia* and *Consejo por la Paz*, and supervisory bodies, such as the *Defensoria del Pueblo*, played a vital role in monitoring the election process and should be encouraged by the international community to continue their work in defense of democracy in Peru.
- Close cooperation among international nongovernmental election observer organizations, intergovernmental election observation missions and domestic observer groups and supervisory bodies can heighten the effectiveness of each and provide a sound basis for the international community and the general public to understand the nature of the electoral process.
- Recommendations of election observers can provide a mechanism for improving the electoral process and offer benchmarks for assessing developments in the process.

- With the emergence of populist leaders with authoritarian tendencies, it is increasingly important to focus on the strengthening of democratic processes and institutions in the region; otherwise, structural weaknesses in democratic development will provide opportunities to supersede the will of the electorate through manipulated or faulty elections.
- The failure to conduct genuine elections deprives the resulting government of a strong foundation based on a popular mandate, which can deny a government the necessary legitimacy to overcome political polarization and scandal.

These lessons demonstrate that the international community should not only call for urgently needed democratic institutional reforms in Peru, but should also support efforts throughout the region to strengthen democratic institutions so that electoral processes will have the support and confidence of the people.

CHAPTER ONE: INTRODUCTION

1.1 Background

Since President Alberto Fujimori's 1992 *autogolpe* (self-coup) suspended the constitution and dissolved Congress and the Supreme Court, the state of democracy in Peru has clearly degenerated. Under the Fujimori government, political institutions across the board were severely weakened or incapacitated. The legislature became largely a rubber stamp for the Executive; many independent media outlets were shut down or marginalized; and the judicial system ceased to be an independent branch of government. In light of these grave structural weaknesses, government authorities needed to take exceptional measures to organize an election process that would be viewed as legitimate by its citizens and meet international standards for a democratic election.

After his reelection in 1995, President Fujimori and a Congress dominated by his supporters initiated a series of legal proceedings designed to allow the President to run for a third term of office and to block any attempts at a referendum that would have prevented him from doing so. This controversial chain of events clearly indicated that President Fujimori was willing to take extraordinary measures to consolidate and perpetuate his power. In addition, his actions further impaired public confidence in the independence of legislative and judicial processes and in the ability of Peruvians to pursue effective legal remedies through the justice system.

On December 27, 1999, President Fujimori officially confirmed his candidacy for a third term. Given the incumbent's clear advantages in terms of access to publicity and resources, it was clear that not all candidates would be competing on a level playing field. Indeed, the front-running opposition candidates began complaining early in the process that President Fujimori and his supporters within the government were waging a "dirty war" using harassment and intimidation to discourage support for the opposition. Criticisms also emerged that the government was using public spending on local projects and public service advertisements to promote President Fujimori's candidacy and particularly to increase his support among the poor.

1.2 NDI/Carter Center Peru Election Monitoring Project

In this contentious environment, NDI and The Carter Center recognized the risk of serious irregularities and the potential effects of low public confidence in the electoral process. As a result, the two institutions opted to organize a comprehensive election monitoring effort, focused foremost on the pre-election period.

An assessment of any election must take into account all aspects of the electoral process. The pre-election period, including electoral preparations and the political environment, must be given considerable weight when evaluating the democratic nature of elections. This period is central to democratic electoral competition. Citizens become keenly aware of their power to select representatives to carry the electorate's mandate to govern and parties and candidates

mobilize their supporters in a test of political pluralism as they compete for votes. If candidates and parties do not have a fair opportunity to compete or the electorate does not receive information to make an informed choice and information about when, where and how to vote, doubt can be cast over the entire election process.

To assess the pre-election period, NDI and The Carter Center organized three international delegations prior to the first round of the elections and opened an office in Peru in January 2000 to provide in-country monitoring of electoral developments. The two institutes also sent a small mission to observe the first round of voting on April 9; a delegation to observe the conditions leading up to the run-off election; and a post-election assessment mission in July to examine ways of resolving the political crisis that resulted from the fatally flawed election process. These delegations included leadership from the Carter Center's Council of Presidents and Prime Ministers of the Americas. NDI and The Carter Center also planned to augment its field presence with an expanded assessment team for the presidential run-off election. However, in conjunction with the decisions of the OAS, European Union, *Defensoria del Pueblo* and *Transparencia*, NDI and The Carter Center decided that the run-off was so flawed that the assessment team should not be sent. Throughout the process, the NDI/TCC mission coordinated its efforts with the activities of Peruvian civic organizations and others working to promote the integrity of the electoral process.

The overall objectives of the NDI/Carter Center international observation program were:

- to demonstrate international support for a peaceful, transparent and democratic election process in Peru;
- to issue periodic, accurate and impartial reports on the electoral process to interested Peruvian actors, the international community and the general public;
- to identify potential challenges to a transparent and fair electoral process and recommend ways to improve the process.

The NDI/Carter Center observation mission conducted its activities according to international standards for nonpartisan international election observation and Peruvian law. The two institutes did not seek to interfere in the election process and recognized that it would be the people of Peru who would determine the legitimacy of the elections and of the resulting government.

1.3 Election Monitoring Experience of NDI and The Carter Center

Since NDI's first international election observer delegation in 1986, the Institute has organized 47 comprehensive international election assessments that included election day delegations, including 15 in Latin America and the Caribbean. NDI has also organized over 50 exclusively pre-election assessments. NDI's election monitoring methodology encompasses the entire electoral process, beginning with an analysis of the legal framework for elections and including critical operational elements, such as voter registration, candidate ballot qualification, composition of election authorities, functioning of complaint mechanisms, as well as analyses of the campaign period, election day and post-election processes. On occasion, NDI joins formally with the UNDP, the UN Electoral Assistance Division and other intergovernmental organizations

to coordinate the activities of various international election observer delegations for an election. From the beginning of its election observation efforts, NDI has emphasized the importance of nonpartisan election monitoring by national citizen groups. The Institute has assisted local election monitoring groups in 52 countries around the globe.

The Carter Center has also been a pioneer in election monitoring and mediation in Latin America. Since its establishment by former U.S. President Jimmy Carter in 1986, the Center has observed numerous elections in the region. In addition to joint observation activities with the National Democratic Institute, the Center observed elections in Panama (1994); Nicaragua (1989 to 1990, 1996); Haiti (1990, 1995); Guyana (1990 to 1992); Suriname (1991); Mexico (1992); Mozambique (1999); Jamaica (1997); and Venezuela (1998 and 2000). Based in large part on its experience in Latin America, The Carter Center established its worldwide Democracy Program in 1997 to support the development of democracy, including successful elections, as the best way to promote human rights, achieve sustainable economic development opportunity, and resolve conflicts peacefully.

NDI and The Carter Center have also conducted joint election missions in a significant number of countries, including: Panama (1989), the Dominican Republic (1990, 1996, 2000), Paraguay (1993), Mexico (1994), Nigeria (1999), and Indonesia (1999).

1.4 NDI's Previous Election Work in Peru

In 1994, NDI helped Peruvian citizens form the country's first national nonpartisan election monitoring organization, *Transparencia*. During the period leading up to the 1995 national elections, NDI worked closely with *Transparencia*, opening a field office in Lima to provide comprehensive assistance to *Transparencia*'s monitoring efforts. *Transparencia* eventually trained and mobilized more than 9,000 nonpartisan, volunteer monitors throughout the country on Election Day 1995 and successfully conducted a parallel vote tabulation that verified the official results. These domestic monitoring efforts created an avenue for citizens to participate in the political process and helped boost public confidence in the elections. The NDI/Carter Center observation mission for the 2000 elections continued to work closely with *Transparencia*, building on the relationship established between NDI and the Peruvian organization for the 1995 elections.

CHAPTER TWO: POLITICAL CONTEXT FOR THE 2000 ELECTIONS

2.1 Electoral System

Peru's electoral system, which has been in effect since October 1, 1997 is governed by the 1993 Constitution and Organic Election Law 26859. Peru holds elections for President, 1st and 2nd Vice-President, and for all seats in the 120-member unicameral congress once every five years. The congress is selected according to a proportional representation system with one single national electoral district. Peru's Constitution allows a President to serve no more than two consecutive terms in office.

On Election Day, voters select one slate for presidential and vice-presidential elections, and, on a separate portion of the same ballot, another slate of 120 congressional candidates, with the option of casting a preferential vote for up to two candidates on that list. Voting in Peru is compulsory for all citizens aged 18 to 70 years, but members of the armed forces and the National Police are disqualified from voting.

The 1993 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. The five-member JNE is ultimately responsible for supervising the electoral system. It is charged with ensuring that the electoral process conforms to law, and serves as the final arbiter of legality with regard to electoral questions or complaints.¹ Special Election Boards (*Jurados Electorales Especiales*, or JEEs) are temporary electoral bodies established by the JNE at the regional level to help oversee and arbitrate the electoral process. The ONPE is charged with planning, organizing and implementing the electoral process. The ONPE also establishes temporary bodies at the regional level that function throughout the electoral process, the Decentralized Offices of Electoral Processes (*Oficinas Descentralizadas de Procesos Electorales*, or ODPEs). 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.

2.2 Recent Political History

Through most of its history as a republic, Peru has oscillated between limited democracy and outright dictatorship. However, the 1978 to 1980 transition from military rule to democracy, coupled with the extension of suffrage to non-literate Peruvians, created a great deal of hope for the future of democracy. National elections that by and large met international democratic

¹ A May 1998 amendment passed by Congress required the vote of four of the five JNE members for upholding legal challenges on electoral matters. This new law was criticized by opposition forces, which viewed it as a way for the Executive to consolidate its control over the JNE.

standards were held in 1980, 1985, 1990 and 1995 and, until 1990, political parties appeared to have relatively stable constituencies within the electorate. Yet as this was occurring, Peru's economic and political situation gradually deteriorated. Inflation reached record highs in the late 1980s, and the country increasingly suffered from internal corruption and terrorism.

The results of these crises 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, 'independent' electoral movements emerged as alternatives to the status quo. The movements that emerged from this vacuum of political institutions had neither a support base within Peruvian society nor a clear ideological foundation. In the 1990 presidential elections, independent candidate and political outsider Alberto Fujimori and his ad-hoc *Cambio 90* alliance surprised the world by defeating the favored presidential candidate, renowned novelist Mario Vargas Llosa, who represented a coalition of a new political movement and two traditional center-right parties.

Tensions between the president and Congress grew during President Fujimori's first two years in office, and in April 1992, President 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 President Fujimori's action. However, the international community was critical of the *autogolpe*, threatening the Peruvian government with economic sanctions and political isolation. President Fujimori responded by quickly establishing a timetable for a return to constitutional government through the election of a new constituent assembly. Elections for the *Congreso Constituyente Democrático* (CCD) were held in November 1992, and *Cambio 90 - Nueva Mayoría*, President Fujimori's new coalition, won 44 of the 80 seats. This assembly drafted a new constitution that altered the balance of power in Peruvian politics and liberalized the economy significantly. Peruvian voters ratified the new Constitution in an October 1993 referendum.²

In August 1994, the CCD enacted an electoral law for the 1995 presidential and legislative elections, the first to be held under a single electoral district.³ On April 9, 1995, President Fujimori, who was able to run for a second consecutive term thanks to the provisions of the new constitution, easily defeated the leading opposition candidate (former Secretary General of the United Nations Javier Perez de Cuellar) in the first round of voting.

During his second term of office, President Fujimori's government employed increasingly autocratic tactics to maintain its hold on power. In August 1996, the pro-government coalition in congress passed a controversial law called the "Law of Authentic

² 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 (55%) as indicators of dissatisfaction with the new constitution. Many opposition groups also complained that the government had used state resources during the referendum campaign.

³ 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 single national district does little to foster accountability, since elected officials do not actually represent a local constituency.

Interpretation,” purportedly to clarify the presidential reelection provision set forth under the 1993 constitution. Essentially, the law stated that President Fujimori’s first term of office was not governed by the new constitution, meaning that he would be eligible to run for another term as president in 2000.

The potential of presidential reelection for a third term in office generated a great deal of tension within both the government and civil society. In 1997, Peru's Constitutional Tribunal, with three of its members signing and four abstaining, issued its opinion that the Law on Authentic Interpretation was “not applicable” to the matter of President Fujimori’s reelection. Congress subsequently removed the three members of the Tribunal who signed the opinion. Their seats remain vacant, depriving the Constitutional Tribunal of the quorum required to declare a law unconstitutional.

Civil society groups, led by the civic organization *Foro Democrático*, collected more than the requisite number of signatures (10 percent of registered voters) to put the issue of President Fujimori's candidacy to a national referendum. However, Congress had recently passed a controversial law requiring that two-fifths of the legislature approve any referendum before it could go before the voters. Because the Constitutional Tribunal lacked the requisite quorum there was no chance of this law being ruled unconstitutional. Based on the law, in 1998, the Peruvian Congress was able to block the referendum on the question of re-election. Peruvians’ ability to challenge the laws of their country was further diminished in July 1999, when Peru announced that it would no longer recognize the jurisdiction of the Inter-American Court for Human Rights.

2.3 President Fujimori’s Candidacy

President Fujimori officially filed his candidacy for a third term as president on December 27, 1999, supported by an alliance of four electoral movements: *Cambio 90*, *Nueva Mayoría*, *Vamos Vecino* (created for the 1998 municipal elections), and *Frente Independiente Nacional Peru 2000*, which lent its name to the “Peru 2000” alliance.⁴ President Fujimori’s candidacy was immediately challenged before the JNE by 18 motions, including motions filed by opposition political parties, civic groups and the Bar Association of Lima. All of these motions were quickly rejected by the JNE, which has the final authority on candidate eligibility.

In addition to the reelection issue, President Fujimori was criticized in the late 1990s for other manipulations of the political and judicial systems and for curbing press freedoms. In 1997, Israeli-born media entrepreneur Baruch Ivcher fled Peru in the face of threats and demands to cease broadcasting news reports critical of the Fujimori government. Ivcher’s Peruvian citizenship was later revoked, and his shares in the nation’s leading television station (Channel 2, or *Frecuencia Latina*) were passed on to a minority shareholder.⁵ This and other incidents

⁴ The State Department’s “Statement on Fujimori’s Decision to Seek Third Term in Peru” (December 28, 1999) is included in Appendix Two. This statement urges the government of Peru to study the findings of election monitoring organizations in Peru and to “take whatever corrective measures may be warranted.”

⁵ Similar incidents of judicial manipulation led to another Peruvian businessman, Genaro Delgado Parker, losing control over a television station (Channel 13, or *Red Global*) and a radio station (Radio 1160) that had broadcast news programs critical of the government; see below.

incited strong criticism and concern for the freedom of expression in Peru from international organizations such as the OAS, the Inter-American Press Association and the New York-based Committee to Protect Journalists, as well as from the U.S. Senate Foreign Relations Committee.⁶ An April 1999 report by the OAS Special Rapporteur for freedom of expression stated that “limitations on the independence of the judiciary have bred a climate of legal insecurity in regard to the practice of journalism,” and depicted an environment in which journalists critical of the government were subjected to death threats and persecution.⁷ In October, *Transparencia* completed a study to evaluate television news coverage of the prospective presidential candidates. The study found that President Fujimori received 78 percent of all coverage devoted to the presidential candidates. Opposition candidates alleged that television stations were unfairly denying them access to television viewers, and thereby detracting from a fair campaign.

Before the election campaign officially commenced, opposition leaders began to complain of harassment and intimidation at the hands of state authorities and President Fujimori’s supporters. In September 1999, presidential hopefuls Alberto Andrade and Luis Castañeda Lossio both produced evidence documenting these allegations. In September, Andrade unsuccessfully requested a judicial investigation into allegations that President Fujimori was using government funds to finance smear campaigns against opposition candidates in the tabloid press (*prensa chicha*). In October, Castañeda Lossio’s *Solidaridad Nacional* presented videotaped evidence of harassment and intimidation; *Transparencia* later issued a report confirming the veracity of the tapes and requesting that the JNE investigate the incidents. The *Defensoria del Pueblo* (Human Rights Ombudsman’s Office)⁸ also asked the JNE to launch an inquiry into the harassment of candidates based on evidence collected by the *Asociacion de Prensa Libre* (Free Press Association). The JNE turned these cases over to judicial authorities, but no judicial action was taken against the perpetrators.

Although the voter registration process ended in December, significant controversy over the accuracy of the voter list (*padron electoral*) ensued. For the first time in Peruvian history, a preliminary version of the voter list was made available to parties and to civil society, and the 30 days from December 9, 1999, until January 10, 2000 were set aside for verifying and correcting the *padron*. In this period, *Transparencia* conducted a study of the *padron* in which they determined the *padron* to be generally sound, while they raised a number of concerns regarding its accuracy. Although the electoral authorities initially claimed that these concerns were grossly exaggerated, the ONPE subsequently instructed the JNE to extend the deadline for correcting the *padron*, from January 10 to February 15.

In light of all of these issues, the first NDI/Carter Center observer delegation found, in December 1999, that the pre-election environment and institutional framework in Peru were

⁶ See OAS Press Release dated December 1998, “Concern over the State of Freedom of Expression in Peru,” and Senate Resolution 209, “Expressing Concern over Interference with Freedom of the Press and the Independence of Judicial and Electoral Institutions in Peru.”

⁷ Report of the Office of the Special Rapporteur for Freedom of Expression; Volume III; Dr. Santiago A. Canton; Organization of American States; Inter-American Commission on Human Rights, April 16, 1999.

⁸ The *Defensoria del Pueblo* is a constitutional body established under the 1993 Constitution to defend the constitutional rights of all Peruvians and to oversee that the state fulfills its responsibilities in providing public services to the population. The *Defensoria* serves multiple functions, including consumer protection, anti-discrimination projects, human rights monitoring, and election observation.

marked by serious flaws that required “concerted and sustained efforts” if the electoral process was to meet international standards. Among other issues, that delegation pointed to the lack of media access for opposition candidates, biased news coverage, a lack of coverage in the press of issues that could affect voter choices, violation of press freedoms, problems with the legal framework and judicial remedies, lack of confidence in electoral institutions and use of state resources to gain electoral advantage.⁹

⁹ The statement of the NDI/Carter Center December 1999 Pre-Election Delegation to Peru is included in Appendix One. Selected press coverage of the first pre-election delegation is included in Appendix Five.

CHAPTER THREE: THE PRE-ELECTION ENVIRONMENT

The pre-election environment in Peru was immediately faced with a challenge as to whether the electoral conditions would permit all candidates to compete on a level playing field. A number of problems surfaced early in the campaign period and were repeatedly documented by observer groups in Peru, including NDI and The Carter Center. An Election Observer Mission organized by the OAS and led by former Guatemalan former minister Eduardo Stein arrived in Peru in early March. In fulfilling its mandate to monitor electoral conditions, the OAS observer mission paid particular attention to the concerns raised earlier in the process by NDI/TCC, *Transparencia* and other observer groups.¹⁰

Unfortunately, despite efforts by Peruvian and international observers to encourage improvements in the electoral conditions to allow for a genuine, democratic election and efforts by Peruvian authorities to make certain improvements, very few of these problems were corrected. As election day approached, the confidence of many Peruvians in the credibility of the electoral process was undermined, due in large part to the serious electoral irregularities described below.

3.1 Lack of Equitable Access to Media / Media Bias

Freedom of access to information is a human right. This right is particularly important in the context of an election, because citizens must have adequate, accurate information to make a free choice at the ballot box. The ability to choose reasonably among candidates makes possible the political expression of the will of the people. For both the electorate and the candidates, fair access to the means of mass communication is addressed by Article 19 of the Universal Declaration of Human Rights and by Article 13 of the American Convention on Human Rights, which state that everyone has the right to seek, receive and impart information and ideas. This right is in turn central to the right to genuine elections, as stipulated in Article 21 of the Universal Declaration and Article 23 of the American Convention. Peru's Organic Election Law (26859), in Article 186, states that in the diffusion of campaign propaganda, regardless of the medium, "equal conditions must be applied to all parties and candidates." Moreover, Article 26 of the Telecommunications Law (D.S. 013-93-TCC) explicitly names the *Jurado Nacional de Elecciones* as the entity which "during electoral processes, ensures that the companies that provide broadcasting services offer, under equal commercial conditions without any kind of discrimination, spaces to political parties, political groups or candidates duly inscribed in the *Jurado Nacional de Elecciones*."

NDI and The Carter Center were deeply concerned by opposition candidates' claims that they were unable to purchase paid advertising or were being charged rates well above market prices for access to time on Peru's most widely watched broadcast television channels. It also seemed particularly unusual that certain financially struggling stations would refuse to sell advertising to a client offering full payment in advance.

¹⁰ The first report of the OAS Election Observation Mission in Peru, issued on March 10, 2000, is included in Appendix Two.

The President and Prime Minister each made several public statements indicating the government was concerned with opening access to the media for all candidates, and the *JNE* also issued a statement on this matter (*Comunicado Oficial* 200-P/JNE). The government also extended the time period during which candidates were provided free time in the state-owned media, from 30 to 45 days prior to the election. However, the majority of privately held television stations did not respond to these requests, and the imbalance in coverage by even the state-owned media continued to worsen in February and March 1999.

In March, the private broadcast media extended a limited amount of airtime free of charge to political parties, but since no candidate (presidential or congressional) could use more than one 'spot' per channel, this was of minimal benefit to presidential candidates. In the final four days of the campaign period, the government announced that radio and television promotional spots for ministries and state-run agencies -- which previously saturated the airwaves -- were to be temporarily halted (although some ads continued to run on the radio). These steps, however, came late and did not prove sufficient to overcome the opposition's great disadvantage in media exposure, or to overcome the apparent lack of public awareness of candidates' platforms and programs. Overall, the response of the authorities to the lack of fair access to media was insufficient.

The 2000 election campaign was also marred by a lack of media objectivity. Substantive political discussion was a rarity on television, particularly on broadcast (open channel) television. Unfortunately, only a small minority of Peruvians have access to cable television, where news programs are more frequent. Moreover, several broadcast television stations were openly biased and hostile towards opposition candidates and Peruvian election observers (see below). In addition, the tabloids (*prensa chicha*) were disproportionately anti-opposition and pro-government. Attacks in the *prensa chicha* on leading opposition candidates escalated to the level of character assassination. These newspapers were believed by many Peruvians to be part of a concerted effort controlled by the SIN to defame opposition leaders and critics of the government.

In recent years, the Peruvian government has become the single largest buyer of television and radio advertising time. Due to outstanding tax debts, the government is also the major creditor of most broadcast television stations. According to many observers, it is the tacit threat of calling-in these debts or withdrawing a major source of advertising income that acts as a disincentive for media corporations to sell spots to, or broadcast coverage of, the campaigns of opposition candidates. Many of the broadcast television stations have also been involved in politically sensitive disputes over ownership. A number of these disputes have resulted in court proceedings that appear to have been instigated to punish individuals who were critical of the government and to reduce negative coverage of President Fujimori and his supporters in the press. Finally, the saturation of the airwaves and public spaces with state-sponsored messages using a logo "*Peru, Pais con Futuro*," nearly identical to that of the President's political group raised questions regarding the effects of these messages on voters and, as such, the use of public resources for political purposes (see subsection **3.3** below).

As the OAS Special Rapporteur on Freedom of Expression reported on March 8, the numerous limitations on freedom of expression in Peru represented “a serious obstacle for the normal development of the election process.”

3.2 Harassment of Candidates and Domestic Observers

The election process was characterized by a general sense of insecurity, and in some cases fear, on the part of opposition candidates and national election observers. Opposition figures repeatedly complained of harassment, such as violent counter-demonstrations and mysterious blackouts during their rallies, suspicious assaults by ‘common criminals,’ and surveillance by intelligence agents. Although the number of complaints was startling, relatively few victims amassed concrete evidence linking these episodes to a concerted pro-Fujimori effort. Nonetheless, the failure of the authorities to investigate these cases and prosecute those responsible for such incidents contributed to a climate of intimidation and a sense of impunity.

The persistent attacks on opposition candidates and national observers on broadcast television and in the *prensa chicha* further eroded the integrity of the elections, as noted above. In addition, opposition groups and media outlets that investigated potential irregularities in the electoral process often found themselves becoming the object of judicial investigations or attacks in the media.¹¹

This harassment fostered an atmosphere of fear and suspicion that presented a serious threat to the credibility and transparency of the electoral process. The public perception that such intimidation was taking place in itself undermined confidence in the process and adversely affected the campaign activities and strategies of opposition candidates.

3.3 Misuse of State Resources and Agencies.

The use of public resources for campaign purposes was a major issue in the 2000 elections, particularly because of the dual roles played by Alberto Fujimori as both President and candidate. According to electoral legislation, a President running for reelection cannot: campaign during the inauguration or inspection of public works; distribute public resources or property to individuals or private entities; or refer directly or indirectly to other candidates or political organizations in his speeches or public presentations. While electoral legislation only provides vague references to the financing of electoral campaigns and laws related to campaign finance are seldom enforced, the Organic Electoral Law does contain 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.

¹¹ For example, both the *Defensor del Pueblo* and the director of *Transparencia* were vilified in the media, particularly on television’s Channel 2 – the station that was taken away from media entrepreneur Baruch Ivcher. In addition, the newspaper *El Comercio* was maligned in the *prensa chicha* and threatened with a lawsuit by a minority shareholder in the weeks that followed their coverage of the alleged *Peru 2000* signature falsification scandal. See subsection 3.4.

Early in the campaign period, the President promised not to inaugurate public works, but he did continue to travel the country intensively to inspect existing public works projects. There were also several examples where the inauguration of a public site was explicitly linked to the reelection campaign, such as the opening of a public health clinic that was advertised on the same flyer as a pro-Fujimori slogan, or campaign propaganda being handed out along with land titles in squatter settlements.

A number of local leaders of poverty alleviation programs reported that they were threatened with the withdrawal of food aid if their community voted against the President or if these leaders did not serve as party poll watchers (*personeros*) for *Peru 2000* on Election Day. In response to allegations in early March that food donations from international agencies were distributed by the government along with *Peru 2000* propaganda, two low-level officials of the *PRONAA* program were suspended from their jobs. However, NDI and TCC noted reports that the use of food aid as a political bargaining chip and the distribution of *Peru 2000* propaganda along with food aid were widespread practices that continued throughout the pre-election period.

Equally controversial was an imbalance in the use of public spaces for campaign propaganda. One example involved the use of restricted military zones -- surrounded by signs proclaiming that guards have orders to fire upon trespassers -- for creating highly visible "*Peru 2000*" advertisements inscribed onto hillsides. The giant "*Peru 2000*" logos were eventually removed from military zones, but reports of the use of state-owned properties for this group's campaign propaganda continued, and the election authorities did not thoroughly investigate the incidents or file charges against those responsible.

There were also some credible charges of political pressure being applied by Peru's tax agency (*SUNAT*) and other public entities against opposition candidates and their supporters. One presidential candidate, Abel Salinas, was the target of an aggressive tax audit within two weeks of declaring his candidacy. Several other candidates and private sector representatives reported that potential campaign donors were dissuaded from supporting an opposition campaign due to the threat of *SUNAT* audits.

More so than perhaps any other government entity, the role of the military in the electoral process merits special attention. Until recently, most of the Central Highlands and many urban peripheral areas were classified as Emergency Zones, a status which remained in effect from the anti-terrorist campaigns of the early-1990s, under which the military held exceptionally broad powers. President Fujimori kept his promise to lift all Emergency Zones before the elections, which was a significant development. However, the effects of years of intense military participation in local life, together with continued military presence in those areas raised concern over the influence the military might exercise over citizens' political choices.

Journalistic accounts of the involvement of the national security forces in campaign activities were reported but were never investigated thoroughly by authorities. An extensive report by the newspaper *La Republica* regarding the possible involvement of the National Intelligence Service (*SIN*) and the National Police in the distribution of *Peru 2000* T-shirts was met with threats to sue the newspaper for defamation. Other journalists reported that in some

communities (e.g. Huancayo) military personnel were acting as support staff for President Fujimori's campaign activities. Finally, NDI/Carter Center and other NGOs noted allegations of military officers interrupting campaign events or telling citizens that the *ONPE*'s computer system lets government authorities know how individual citizens voted, an apparent effort to intimidate voters.

3.4 Impunity and the Peruvian Judiciary

The lack of autonomy of the Peruvian judicial system had a negative impact on this election process in a number of ways. Journalists, opposition leaders or representatives of civil society formally denounced many of the cases of electoral wrongdoing described above, yet many of the irregularities were investigated inadequately or not at all. There were indicators that the judiciary was politicized not only through its inaction in investigating and prosecuting electoral-related infractions; it was also used as a weapon against opposition figures and organizations. Furthermore, judicial processes and investigations initiated by critics of the government resulted at times in the accusers themselves being accused of a crime or sued in civil court.

Among the most prominent cases that developed in the pre-electoral period was the alleged mass falsification of signatures in an effort to register people for the legal inscription of the *Frente Nacional Independiente Peru 2000* (Independent National Front Peru 2000). The *Frente Nacional Independiente Peru 2000* was formed in 1999 to support the Peru 2000 Alliance that backed President Fujimori's candidacy for re-election and fielded a list of candidates for Congress. The electoral authorities did not conduct a rigorous investigation of this matter, and the *JNE* and the *ONPE* publicly challenged the legal jurisdiction of the *Defensoria del Pueblo* for reviewing the matter. Eventually, two congressional candidates who may have been associated with the alleged falsifications did withdraw from the Peru 2000 slate, and the *Frente Independiente* was decertified as a member of the broader Peru 2000 Alliance that President Fujimori led in these elections. Peru 2000 was allowed to continue in the elections as a three-party alliance.

However, the case was not vigorously investigated for several months after the accusations came to light, effectively delaying judgment until the elections were over. A special prosecutor (*fiscal especial*) was named to the case, but there was little evidence of progress in the investigation. The electoral authorities announced they would not conduct their own investigation of the administrative and electoral aspects of the allegations, which again called into question the credibility and neutrality of the judicial process and the electoral authorities.¹²

When the news daily *El Comercio* first reported on the signature falsification scandal, the owners of the paper were threatened with the reactivation of a decades-old lawsuit by a minority shareholder. In a separate case, media entrepreneur Genaro Delgado Parker was stripped of his control of television channel 13 and had the transmitters from his Radio 1160 confiscated repeatedly in questionable legal proceedings. These cases, in conjunction with the Ivcher case,

¹² See Chapter Five for details of the Congressional *Mellado Commission*, which conducted a post-election investigation of irregularities in the first round of the elections, including the signature falsification charges.

reinforced the widespread perception that the Peruvian judiciary was being utilized for political purposes.

3.5 Irregularities in the Administration of the Elections

Throughout the pre-election period, many opposition parties and civic groups expressed concerns regarding the independence and impartiality of the three government entities charged with administering the electoral process: the RENIEC, the JNE, and the ONPE. There were significant instances in which the *JNE* and *ONPE* failed to comply with the electoral law and with their own internal regulations. The JNE repeatedly failed to respect procedures for nominating and selecting the regional *Jurados Especiales Electorales (JEEs)* particularly those procedures which allow for public input by exercising a veto (*tacha*). As a result, 15 of the 47 *JEE*'s had to be renamed. Even so, some *JEE*'s had members who were suspected by many to be *Peru 2000* activists or government representatives. Either of these factors would have been legal grounds for vetoing a *JEE* nominee.

NDI and The Carter Center were impressed by the apparently high technical capacity and methodological sophistication of the ONPE and RENIEC.¹³ However, these institutions were also the subject of numerous allegations of a lack of neutrality and an unwillingness to correct deficiencies documented in the electoral process. For example, the ONPE indicated prior to the election that it would be illegal for independent observers to publicly announce the results of their "quick counts" on Election Day, an opinion unsupported by Peruvian law and inconsistent with the well-accepted practices of Peruvian observer groups in previous elections. Fortunately, based in part on expressions of domestic and international concern, ONPE did not prevent the release of quick count information. Another case that cast the neutrality and professionalism of the ONPE into doubt was the alleged signature falsifications used to qualify *Frente Independiente Peru 2000*; according to witnesses, the falsification effort benefited from internal *ONPE* documents that are not normally available to the public. Several ONPE officials were directly implicated in the scandal and eventually removed from their posts without full investigation.

At the regional level, a local ONPE official from Chachapoyas, Dr. Jenny Vargas, resigned a week prior to the elections, citing the flagrant pro-Fujimori biases of her subordinates and her superiors as the reason. Dr. Vargas, in what many believe have been political reprisal, was herself later denounced by the ONPE and could face charges in the future.

The voter education efforts planned by ONPE were not sufficient, given the unusually high percentage of annulled ballots in the 1995 elections and the complexity of voting for congressional candidates. In the months leading up to the April 9 elections, public opinion research consistently demonstrated that large segments of the electorate were not sufficiently aware of voting procedures.

¹³ For example, the results of vote counts at each polling place were supposed to be made available on a web site, which in theory allow parties and election observers to verify that results from the polling places they observed were accurately recorded and tabulated into the national election results.

The vote tabulation process itself was plagued by irregularities and suspicion. Up until the very day of April 9, the ONPE was unable to conduct a successful simulation of its data collection and vote tabulation processes in their entirety.¹⁴

3.6 Government Responses to NDI/Carter Center Pre-election Recommendations

In February, an NDI/Carter Center delegation observed that the electoral process was still marred and in many respects conditions had worsened since the first NDI/Carter Center delegation in early December.¹⁵ The delegation again highlighted continuing problems with media access and bias, as well as inappropriate use of state resources in the campaign. In addition, the delegation pointed to harassment campaigns in the media against candidates, national election observers and the Ombudsman's Office, and noted what appeared to be an orchestration aimed at ensuring a specific legal outcome on the issue of the President standing for re-election. The February delegation noted that effective measures needed to be implemented "immediately and comprehensively" so that the credibility of the process might be established and international standards met.¹⁶

In March, another NDI/Carter Center delegation noted with concern the continuing lack of access to the media by opposition candidates, as well as media bias and intensified smear campaigns in certain media outlets against opposition candidates, *Transparencia*, the *Defensoria del Pueblo* and individual citizens who had been critical of the government.¹⁷ The delegation also highlighted controversial legal proceedings that led to the above-mentioned closure of a radio station that had begun to broadcast independent political news, and concerns that the Peruvian judicial system was being used for political purposes. The March delegation statement drew attention to use of state resources for electoral advantage and analyzed the detrimental effects on the electorate's confidence caused by the alleged falsification of over a million signatures for the legal inscription of *Peru 2000*.

The government took a number of steps to address the concerns raised by NDI/ Carter Center and others. In the months leading up to the first round of the elections, a hotline for election complaints was established, and special prosecutors were named for each region.¹⁸ Prime Minister Alberto Bustamante also issued a written instruction to public authorities to

¹⁴ See Chapter 4 for details of problems with the ONPE vote tabulation process.

¹⁵ The statement of the February NDI/TCC delegation is included in Appendix One. Press coverage of the mission from Peruvian and international news sources can be found in Appendix Five.

¹⁶ A February 11 press statement by the U.S. Department of State on the "Findings of NDI/Carter Center on Peruvian Electoral Process" is included under Appendix Two.

¹⁷ The statement of the March delegation is included in Appendix One; a response by the White House Press Secretary, issued on March 28, 2000, is included in Appendix Two. A joint resolution by Congress on the Peruvian elections (introduced on March 28 and signed as Resolution 43), is also attached under Appendix Two. Press coverage of the March mission is included in Appendix Five.

¹⁸ During the months of February and March, the Peruvian government took a number of steps in direct response to NDI/Carter Center recommendations. NDI was advised of these measures in direct communications from Peruvian authorities. The following communications are included in Appendix Three: a fax dated February 15 from the Ambassador of Peru to the United States, Alfonso Rivero to NDI President Ken Wollack; a letter from Prime Minister Bustamante, dated February 22, 2000 and addressed to NDI President Kenneth Wollack; and a letter dated February 29 from Ambassador Rivero to Kenneth Wollack, along with attached newsletter entitled "Election Update Peru."

respect the law and not use state resources to support or oppose electoral candidates. With regards to the issue of the mass media, the government publicly stated that it was concerned about fair media access and arranged a limited amount of free airtime in both private and public media, as noted above in subsection 3.1.¹⁹ However, this media time unfortunately fell short of what would have been required to compensate for months of biased coverage and lack of access to the mass media. Moreover, the introduction of new problems into the election process, such as the scandal over the falsification of signatures for *Frente Independiente Peru 2000* and the apparent lack of effective action concerning this matter, further damaged public confidence.²⁰

The JNE investigated a few cases of electoral irregularities. However, the authorities were slow to react to public outcries and did not act proactively to protect citizens' rights and promote fairness in the electoral process. The lack of effective action to hold accountable perpetrators of electoral-related abuses sent a dangerous signal to the electorate: that the government and its supporters could act with impunity.²¹

¹⁹ A Press Release from the Embassy of Peru entitled, "National Media Will Provide More Access to Political Parties" is included in Appendix Three.

²⁰ A press statement from the U.S. Department of State, issued on March 9, 2000, is included in Appendix Two. This statement indicates, "the Government of Peru has not satisfactorily addressed the serious electoral deficiencies identified in the NDI/Carter Center [February 11] report."

²¹ On April 3, 2000, *Transparencia* issued a declaration entitled "A Una Semana de Las Elecciones," (One Week Before the Elections), stating that the pre-election period in Peru did not establish the minimum standards for a free and fair election process. This statement is included in Appendix Four.

CHAPTER FOUR: THE FIRST AND SECOND ROUNDS OF THE ELECTIONS

4.1 The April 9 Elections

The April 9 elections were generally peaceful, and large numbers of Peruvian citizens participated as voters, polling station administrators, political party agents and election monitors. Yet according to opinion polls, a majority of Peruvians believe that the April 9 elections were affected by fraud.

Observer groups reported witnessing irregularities at many polling. The most common irregularities in the voting process cited were: the presence of illegal propaganda in or around polling sites; irregularities in voting materials (including ballots that were pre-marked with votes for *Peru 2000* and/or were missing Alejandro Toledo's *Peru Posible*); attempted intimidation of political party agents (*personeros*) by police and military officials demanding to know *personeros*' names and identification numbers, which the officials then recorded; and the improper participation of government officials in the voting process.

The vote tabulation process was plagued by irregularities, which led to a lack of confidence in the presidential and parliamentary results. For example, the ONPE's results showed over a million more votes cast than voters who went to the polls. The ONPE stated that this was due to the fact that inadequately trained poll workers from multiple *mesas* had failed to note on the *acta* (tallysheet) the number of voters who signed in on the voter lists, thus zero voters were counted for the *mesa* but their votes were included in the ballot totals. The ONPE failed to present *mesa by mesa* evidence of this problem. Even according to the ONPE's explanation, the number of voters did not equal the number of votes cast, in fact votes cast exceeded voters by more than 160,000. Moreover, in every *mesa* where zero was entered for the number of voters, there could have been more ballots in the ballot box than the number of people who signed the list. In addition, a significant number of voting stations (*mesas*) reported that more ballots were cast than the number of voters who signed the voter lists. By law, the extra votes are counted unless the number of ballots exceeded the number of voters registered at that *mesa*.²²

Although technical observers from the OAS and *personeros tecnicos* from political parties were allowed to observe the ONPE and ODPE entering data on April 9 and the days that followed, the systems engineering of these processes did not allow for effective verification of the results. The OAS had requested a mechanism by which it could monitor the overall vote tabulation process from a computer terminal as the count was being conducted, but the ONPE was unable or unwilling to comply.

The results of preliminary exit polls released by three different companies at 4:00 pm on Election Day suggested either a virtual tie between Alberto Fujimori (*Peru 2000*) and Alejandro

²² This legal provision negates an important safeguard against ballot box stuffing and multiple voting. When such provisions appear in election laws, they are usually restricted to *deminimus* differences between the number of signatures on lists and ballots cast.

Toledo (*Peru Posible*) or a moderate lead for Toledo. Quick counts conducted by these same companies and by *Transparencia*, based on random samples taken from actual polling data, gave President Fujimori a small lead. None of these counts showed him surpassing 48.8 percent of the valid votes, indicating that the election would go to a run-off. The differences between the exit polls and the quick counts, and between these results and the ONPE's official tallies, created an atmosphere of confusion and distrust of the official results.

Delays in the computing process and the opaque nature of the ONPE's systems also created a widespread perception that the process of tabulating the results of the April 9 elections was influenced, at least in part political factors rather than being a purely mathematical exercise.

As a result of confusion over the official results, the parallel vote tabulations (*conteos rapidos*) conducted by *Transparencia* and others received a great deal of public attention, both domestically and internationally. The results of *Transparencia's* parallel vote tabulation indicated that President Fujimori had won 48.73 percent of the valid votes cast and Dr. Toledo 41.04 percent. ONPE did not present complete results of the presidential election until April 28. Upon receipt of the election results, however, the JNE announced within five hours that the election date for the second round would be May 28. The final results released by ONPE showed President Fujimori earning 49.87 percent of the valid votes cast and Dr. Toledo 40.24 percent.

4.2 The Second Campaign Period and The Presidential Run-Off

The rapid manner in which the May 28 date was set surprised many people. The ONPE caused further controversy by presenting results to the JNE without first providing all of the necessary information to the parties so that they could evaluate it and submit complaints or challenges (*denuncias*) as necessary. Moreover, the ONPE did not release the results for the Congressional elections (also held on April 9) until the second week of May. Party leaders reported that they did not have the precinct by precinct ("*mesa por mesa*") information they needed to analyze the results and prepare electoral challenges and were therefore unable to lodge *denuncias* within the three-day period following the announcement of the official results, as specified by law.

Opposition political parties and domestic election observers also questioned the overall credibility of the Congressional election results, particularly the calculation of the parties' proportional allocation of seats and the tabulation of the preferential votes. First, there was a discrepancy of over 120,000 votes in the official ONPE results between the number of people who voted in presidential and congressional elections (the presidential numbers being higher). This is logistically impossible, since the ballot consists of one single piece of paper, and anyone who voted for president but not for congress would have had his or her congressional vote tallied as "blank." Second, in the final few percent of votes counted, certain *Peru 2000* candidates received implausibly high numbers of preferential votes. Francisco Tudela, for example, jumped from 809,269 votes with 99.9% of votes counted, to 840,943 votes with 100% of votes counted. The final 0.1% of the votes counted adds up to only 11,943 votes in total, yet according to

ONPE's results Tudela received 31,674 votes in that same increment.²³ Third, in late April and early May, 11 data entry workers at the ONPE were fired and/or charged with committing fraud, based on accusations that they were paid to inflate the number of preferential votes of certain candidates, yet no legal action was ever taken against the candidates who illegally benefited from these fraudulent practices. Both the *Frente Independiente Moralizador* (FIM) and *Somos Peru* pointed out that at certain moments in the vote tallying process the total number of votes that they received decreased rather than increased -- another mathematical impossibility. In the case of *Somos Peru*, the party had a total of 752,452 votes with 99.97% of precincts counted nationwide, but only 715,384 votes when 100% of votes were counted. This mysterious loss of votes may have cost *Somos Peru* a congressional seat.

In the wake of the April 9 elections, opposition candidates and many of their followers took to the streets in protest of what they perceived to be grave irregularities in the voting and tabulation process. The remaining opposition candidate for the presidency, Alejandro Toledo, repeatedly stated that his participation in the run-off election was conditional upon correcting the deficiencies of the pre-electoral period and on Election Day. The *Defensoria del Pueblo*, the OAS observer mission, and *Transparencia* all proposed ways in which the integrity of the electoral process could be improved in the brief period of time between the two rounds. On April 23, the ONPE announced the formation of three working groups to investigate its own shortcomings and propose improvements to the technical aspects of the electoral process. The three issues addressed by the working groups were: training of polling station officials (*miembros de mesa*); the computerized vote-tabulation system; and overall management of the elections. Each group consisted of two representatives from the ONPE and one representative each from *Peru Posible* and *Peru 2000*, which were both supervised by the OAS and the *Defensoria del Pueblo*. The proposals that emerged from this rare example of consensus building were not properly implemented. In addition to these working groups, direct dialogue between representatives of the two remaining presidential candidates was initiated, but quickly broke down.

From May 1 to May 5, an NDI/Carter Center observer delegation visited Peru and noted the persistence of many of the serious problems that plagued the first round of the elections, including lack of media access, media bias, smear campaigns against political opposition, harassment and obstruction of domestic election observer groups, misuse of state resources, and a sense of impunity for electoral crimes. NDI and the Carter Center also expressed support for the technical reform efforts of the ONPE working groups, as well as the initiation of negotiations between *Peru 2000* and *Peru Posible*. The observer delegation recognized some improvements in electoral conditions, such as the suspension of non-essential state advertising during the entire second campaign period. However, the overall evaluation of NDI/Carter Center at that time was that the credibility of the entire election process was at risk, and that unless immediate and

²³ The preferential vote tallies of other Peru 2000 congressional candidates such as Absalon Vasquez and Maria Jesus Espinoza increased by amounts that were not mathematically impossible but were highly unlikely, given the number of possible candidates to choose from. In general, *Peru 2000* candidates received a vastly disproportionate portion of their preferential votes from these last few thousand polling sites to be tallied. This matter was not investigated or explained.

comprehensive measures were taken, the process as a whole would fail to meet international standards.²⁴

In light of the technical deficiencies and low levels of voter confidence following the first round, the date of the presidential run-off itself became a hotly contested issue in the month of May. Although the *JNE* set the date for the second round to be held on May 28, the OAS later indicated that more time was necessary in order to improve the performance of the ONPE. The *Defensoria del Pueblo* and dozens of other Peruvian civil, professional and political organizations also publicly supported a postponement to correct at least the technical deficiencies of the electoral process.

On May 18, presidential candidate Alejandro Toledo announced that he would not participate in a run-off election on the date set by the ONPE, calling for a substantial improvement of electoral conditions and suggesting June 18 as a possible date. As a result, domestic observers such as *Transparencia* decided that they would not observe a run-off election in the absence of full participation by both candidates.

Serious problems with simulations of the ONPE's vote tabulation systems and a lack of timely access to the ONPE's software, which was needed to establish sufficient transparency, led the OAS to explicitly propose a 10-day delay in the elections. However, on May 25, the JNE decided by a 3 to 2 vote that the run-off should not be postponed.

The JNE's rejection of the OAS proposal for a postponement to establish the credibility of the ONPE's vote tabulation system, combined with the severe deficiencies in the overall electoral environment and the lack of a contested election, led to the cancellation of virtually all planned observation and supervision efforts. The OAS mission withdrew from its role as observer and maintained only a skeleton staff in Lima.²⁵ The European Union's election observer mission also withdrew from Peru. The *Defensoria del Pueblo* refused to supervise the elections, opting only to open its regional offices on Election Day to take statements and *denuncias* and to monitor the expected protests and demonstrations²⁶. In addition, *Transparencia* decided not to deploy, and NDI and The Carter Center issued a statement explaining their decision not to send an election assessment team to augment their field presence in Peru for the May 28 vote.²⁷ These decisions by all major international and Peruvian observer organizations represented an unusual consensus in the history of election observation around the world and reflects a common view that a genuine election in Peru was no longer possible.

4.3 The Presidential Run-Off

²⁴ The report of the May NDI/TCC delegation is included in Appendix One, and a subsequent statement by the U.S. State Department endorsing this NDI/TCC report is included in Appendix Two. Press coverage of the May mission is included in Appendix Five.

²⁵ Bulletin No. 12 of the OAS Election Observation Mission in Peru, issued on May 25, 2000, is included in Appendix Two.

²⁶ The statement by the *Defensoria del Pueblo* issued on May 26, 2000 is included under Appendix Four.

²⁷ The NDI/TCC May 25 press release is included in Appendix One and *Transparencia*'s announcement that the organization would not observe the second round of the elections is included in Appendix Four.

The results of the voting that took place on May 28, which were determined in the absence of impartial observers and opposition party pollwatchers, demonstrated a high level of discontent and polarization among the electorate. According to the ONPE's unverifiable results, nearly thirty percent (29.93%) of all voters spoiled their ballots, while 51.2% voted for President Fujimori; 17.68% voted for Toledo, despite his non-participation; and 1.19% left their ballots blank. Given the questions concerning the April 9 vote count, the strong expression of concern about the ONPE's vote tabulation software and the lack of safeguards against ballot box stuffing and vote-count manipulation, there was an extraordinary lack of confidence in the reported results and in the mandate provided to President Fujimori.²⁸

On the evening of May 28 and on several subsequent days, large demonstrations were held in cities and towns across Peru. These demonstrations were met by a very strong police presence. Tear gas was used extensively on the crowds, and over 130 people were detained, mostly in the cities and towns of Peru's interior. In these circumstances, the re-election of President Fujimori was tainted by what came to be widely referred to as a crisis of legitimacy.

²⁸ A statement issued by *Transparencia* on May 29, 2000 is included in Appendix Four.

CHAPTER FIVE: THE POST-ELECTION PERIOD

5.1 The Election Results

Unfortunately, despite the combined efforts of numerous observer groups, including NDI/Carter Center and others, to urge improvements in the electoral process, neither the timeliness nor the scope of the government's response was sufficient to overcome the irreparable damage that had been done to the process. The fundamentally flawed campaign period culminated in an electoral crisis after the May 28 run-off election failed dramatically to meet international standards for a genuine, democratic election.

As a result, the 2000 election process essentially divided Peruvian society in half. Many felt that their right to a genuine election had been denied, and they refused to accept that the election results provided a popular mandate to President Fujimori. Those who accepted the election results rejected the possibility that the process should be called into question. The post-election environment therefore was marked by extreme political polarization and a crisis of legitimacy. In the wake of the electoral crisis, various proposals for forward-looking democratic reforms and the institutional means for achieving these reforms became the subject of heated debate among various sectors in Peru.

5.2 The OAS Response to the Faulty Election Process

On May 31, just three days after the May 28 electoral exercise, the OAS' permanent representatives met in Washington, DC to consider the crisis in Peru. They agreed to put the contentious Peruvian elections on the agenda of the OAS General Assembly meeting, scheduled for June 2-4 in Windsor, Ontario.²⁹ At these meetings, the Peruvian elections were of primary concern, although member states were divided between those who favored a discussion of sanctions via an invocation of OAS Resolution 1080 and those who believed that Peru had not truly experienced an interruption of democracy. After much debate, the General Assembly reached a consensus and passed a resolution in which they decided to send a "High-Level Mission" to Peru, consisting of OAS Secretary General Cesar Gaviria and Canadian Minister of Foreign Affairs Lloyd Axworthy.³⁰ The decision of the permanent representatives to place Peru on the agenda of the General Assembly and the decision to establish the High-Level Mission concerned with Peruvian democratic reform were exceptional acts that helped to create hope for a positive resolution of the Peruvian crisis. These decisions also built upon outstanding contributions that the OAS provided through the Election Observation Mission led by Eduardo Stein.

²⁹ On June 2, with the advice and encouragement of NDI and The Carter Center, former U.S. President Jimmy Carter, former Costa Rican President Rodrigo Carazo, and former Prime Minister of Barbados, L. Erskine Sandiford, sent an open letter to the OAS Foreign Ministers urging them to take decisive action to preserve democracy in Peru. A copy of this letter can be found in Appendix One.

³⁰ The OAS Resolution is included in Appendix Two.

An “Advance Mission” consisting of high-level representatives from Canada and the OAS was sent to Peru June 19-23, and met with a wide range of political actors and representatives of civil society. The Axworthy-Gaviria Mission took place on June 27-29, and included lengthy meetings with both the government and opposition groups. Out of this mission emerged a list of 29 recommended democratic reforms in areas such as the rule of law, separation of powers, human rights, freedom of expression, and electoral process.³¹ Although the OAS did not initially impose a timetable for compliance with these recommendations, the High Level Mission indicated that they should be implemented prior to the next municipal elections, scheduled for late 2001 or early 2002. The OAS also decided to establish a Permanent Secretariat in Peru to accompany the democratic reform process. The outgoing Chancellor of the Dominican Republic, Eduardo Latorre was named head of this mission.

5.3 Other Responses to the Electoral Crisis

Shortly after the release of the final election results and prior to the High Level OAS Mission, the Peruvian government formed a Presidential Commission for Democratic Reform, headed by Prime Minister Alberto Bustamante. The other members of the Commission included Chancellor Fernando de Trazegnies, Vice-President Elect Francisco Tudela³², and Minister of the Presidency Eduardo Mosquera. Former Peru 2000 congressional candidate Maria Mendes was named as the Executive Secretary. Many important academic and political figures refused to participate on the Commission due to the top-down nature in which it was formed.

A number of Peruvian civil society organizations proposed reforms and suggested conditions under which a credible dialogue might take place. *Transparencia*, the *Colegio de Abogados de Lima*, the *Defensoria del Pueblo*, and others all made public statements and/or prepared public documents regarding their vision of political reform and a negotiated resolution of the current crisis.³³ 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 (Baruch Ivcher and Genaro Delgado Parker, respectively); and the departure of intelligence advisor Vladimiro Montesinos from Peruvian politics.

In this context, NDI and The Carter Center decided to send a post-election assessment team to Peru. The international delegation was in Lima from July 9 through July 14, 2000, and was led by former President of Guatemala, Hon. Ramiro de Leon Carpio.³⁴ In addition to holding consultations with a wide range of Peruvian leaders, the delegation, together with *Transparencia*, co-sponsored on July 13 the first post-election forum on the common aspirations of Peruvians for genuine democratic reform. The forum was attended by more than 75 representatives of political parties, news media and civic, religious, business, labor and

³¹ The recommendations for democratic reform prepared by the OAS Special Mission are included in Appendix Two.

³² In July, Tudela resigned as a member of the commission, citing a conflict of interest with his role as Congressman.

³³ *Transparencia*’s June 23 statement is included in Appendix Four.

³⁴ The statement of the NDI/Carter Center Post-Election Delegation to Peru is included in Appendix One to this report. Selected press coverage of the July mission is included in Appendix Five.

professional organizations, as well as by representatives of the diplomatic community. Details of the post-election delegation's conclusions and recommendations, as well as the recommendations of other groups to resolve the political crisis in Peru, are included in various appendices to this report.³⁵

5.4 Post-Election Political Developments

While the Peruvian government stated that it is open to political dialogue and democratic reform, developments during the post-election period led many Peruvians to question President Fujimori's reformist intentions. The points noted below are among the developments.

- *The alleged use of threats and bribery to coerce opposition deputies-elect to officially change their party affiliation to Peru 2000.*

One of the most serious accusations in this regard was made by Jorge Samuel Chavez Sibina, a congressman-elect for *Somos Peru*. Sibina reported that the head of the Joint Command of the Armed Forces had personally invited him to a meeting at Peru's military headquarters, where he was offered an 'extra' monthly salary and the approval of his legislative projects if he switched sides. He was threatened with a media smear campaign or a lawsuit if he refused the offer. Many other such incidents were reported by opposition members of congress from various parties who had refused similar offers.

According to the April 9 election results, the opposition won a majority of congressional seats. However, when the new Congress was instated on July 24, 2000, 64 deputies pledged their affiliation with *Peru 2000*. Only 52 of these individuals were originally elected under the *oficialista* alliance; the other 12 switched their party affiliation between May 28 and July 24. On July 25, when the new Congress elected its leadership, the *Peru 2000* ticket won 70 votes; the opposition ticket received 46 votes; there were three abstentions and one null ballot.

- *The armed forces' ceremonial recognition of Alberto Fujimori as President.*

On June 8, 2000, President Fujimori was recognized as Commander in Chief for 2000-2005 in a ceremony held by the military and the National Police. This ceremony was unprecedented in Peruvian history, given that he was still 50 days away from being sworn in as President in the official, civilian ceremony. Moreover, the JNE had not yet resolved all contestations and issued the final credentials to the elected candidates. Many viewed the preemptive ceremony as an intentional signal of the military's support for President Fujimori.

- *The biased and incomplete nature of congressional investigations of irregularities in the first round of the elections, including the alleged falsification of signatures for the registration of Frente Nacional Independiente Peru 2000 (one of the four members of the Peru 2000 Alliance) as a political party and the alteration of preferential vote tallies in the congressional elections.*

³⁵ Timetables for reform prepared by a group of opposition parties and by the *Coordinadora de Derechos Humanos* are included in Appendix Four.

In the wake of the elections, the government created several bodies to investigate the various irregularities in the first round of voting. A Congressional commission headed by *Cambio 90 - Nueva Mayoria* Congresswoman Edith Mellado called numerous witnesses to testify on several issues that had affected the integrity of the first round elections. The Mellado Commission focused in particular on two high-profile cases: the alleged conspiracy to falsify over one million signatures for the inscription of the *Frente Independiente Nacional Peru 2000* as a political party; and the alteration of preferential vote tallies in the congressional elections for the benefit of congressional candidates from various parties.

With regard to the signature falsification scandal, only the witnesses (whistleblowers) who first reported the scandal to the media and a few lower-level pro-Fujimori political figures were charged in relation to this case. Several higher level *Peru 2000* politicians implicated by the witnesses were never fully investigated. With respect to the alteration of preferential votes in congressional elections -- a crime for which a group of ONPE data entry workers had already been fired -- the Congress and the Peruvian judicial system determined that the candidates who benefited from these fraudulent practices were not legally responsible for the crimes. In both of these cases, the government did not demonstrate the political will to thoroughly examine the failings of the electoral process and, by doing so, regain the confidence of its citizens.

- *Use of force against protesters during the High Level OAS Mission.*

During the visit of OAS Secretary General Gárriga and Canadian Minister of Foreign Affairs Axworthy, thousands of Peruvians took to the streets to express their criticism of President Fujimori's government and their hopes for an OAS-sponsored mediation process that would help resolve the political crisis. Despite the presence of both national and international media, the Peruvian security forces in many instances treated demonstrators with a disproportionate amount of force, including heavy use of tear gas and numerous arrests and detentions of peaceful protesters. Some demonstrators even witnessed security forces destroying public property, apparently so that protesters could be blamed for the damage and thereby lose credibility in the eyes of the public. Several journalists who documented these actions of government security forces mysteriously "disappeared" in the days following the march. They were only returned after several independent media outlets applied significant pressure through investigative reporting.

5.5 The Presidential Inauguration and the *Marcha de los Cuatro Suyos*

On July 28, 2000, President Fujimori took his oath of office for a third five-year term as President. In the weeks preceding this event, the so-called democratic forces in Peru, led by former presidential candidate Alejandro Toledo, organized a large march to protest the President's inauguration and call for a restoration of democracy to Peru. The demonstration was named the "*Marcha de los Cuatro Suyos*," in reference to the four quadrants of the Inca empire, and march organizers urged Peruvians from around the country to travel to the capital to participate.

In the days before the march, several curious developments led protestors to accuse the government of attempting to sabotage the demonstration:

- In several locations, march organizers claimed that they had identified “infiltrators” at their organizational meetings. It was widely believed that these “infiltrators” were part of the Peruvian security forces, and many feared that they would purposefully incite violence during the march to discredit the protestors.
- There were numerous reports of the police detaining buses and vans carrying protestors to Lima from provincial cities, on charges that they did not have the necessary papers to travel to the capital.
- The day before the march, municipal authorities issued a decree forbidding any flights over the city throughout the inauguration period. Presumably, this was an attempt to limit aerial media coverage of the events and prevent international visitors from observing the size of the march from the air.
- The only television station that provided coverage of the march was *Canal N*, a cable television station owned by the reputable newspaper *El Comercio*. All other stations covered only the inauguration and ignored the protests outside.
- There were nearly 30,000 troops and more than 30 tanks deployed throughout Lima to intimidate the protestors on the days of the march.

Reports indicate that at the height of the protests, there were approximately 100,000 marchers in downtown Lima. Tragically, on the day of the inauguration, Friday, July 28, a small group in the streets resorted to violent tactics, setting several downtown buildings on fire. Six innocent bystanders were killed when trapped in a burning bank building that had allegedly been used by the JNE to store ballots after the elections. It was unclear who was to blame for the arson, although pro-government spokespeople quickly claimed that the organizers of the march should be held responsible.

Inside Congress, deputies from the *Peru 2000* alliance participated fully in the inauguration of President Fujimori. 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 continued polarization of Peruvian society as a result of the 2000 election process.

CHAPTER SIX: CONCLUSIONS

6.1 Assessment of the 2000 Elections in Peru

The 2000 election process in Peru failed dramatically to meet minimum international standards for a genuine, democratic election. As a result, the people of Peru were denied the opportunity to exercise their right to democratic elections, and the government that emerged from the elections lacks a legitimate mandate based on the will of the electorate.

Almost all of the groups observing the electoral process in Peru, including NDI/Carter Center, the OAS, the European Union, the *Defensoria del Pueblo*, *Transparencia*, and *Consejo por la Paz*, decided not to observe the second round of voting on May 28, affirming their belief that the electoral process was neither legitimate nor credible. This broad consensus among various Peruvian and international observer groups that the election process did not meet international standards speaks to the extraordinary extent and severity of the irregularities that were documented throughout the process.

While the refusal of the election authorities to postpone the election date and presidential candidate Alejandro Toledo's related decision to withdraw from the race ultimately caused most observer groups to pull out of Peru, electoral irregularities were by no means restricted to procedural and technical problems in the final stages of the process. The Peruvian election was characterized by severe flaws in the electoral environment on a scale rarely witnessed in Latin America, or elsewhere. These flaws were deep-seeded, originating in the weaknesses in Peru's democratic institutions and processes. They included: insufficient separation of governmental powers, which weakens the independence of the legislative and judicial branches; lack of political neutrality of state institutions; lack of impartiality and effectiveness of electoral bodies; and impediments to freedom of expression, including press freedoms. A related, important factor is the weaknesses in the organization and functioning of political parties and movements. These factors undermined political competition and the efforts to improve the electoral process by political and civic leaders, as well as such efforts by governmental and electoral officials. From the beginning of the process, it was evident that the government would need to take extraordinary, comprehensive efforts to overcome electoral deficiencies. Unfortunately, the political will of those in power to take such steps was not demonstrated during the electoral process.

In addition, the failure to sanction those responsible for violations of the electoral law undermined voters' confidence in the impartiality of the election authorities and in the rule of law. By April 9, public confidence in the legitimacy of the entire electoral process had been so severely eroded that many Peruvians assumed that the tabulation of the final results was a political decision, rather than a mathematical calculation. Given the widespread perception that the process was affected by fraud, the election authorities and the Peruvian government should have taken extraordinary steps to ensure that the second round of voting would restore voters' confidence in the legitimacy of the elections. Instead, the election authorities failed to implement recommendations made by national and international election observers and by the working

groups that the electoral authorities themselves organized. The second round of voting therefore took place in an atmosphere of extreme suspicion and mistrust.

In each of its public reports, the NDI/Carter Center observation mission sought to offer recommendations to help improve the integrity of the electoral process. Many of these recommendations suggested ways of correcting specific deficiencies in the process that were undermining public confidence in the elections' credibility and legitimacy. However, the recommendations included in the first NDI/Carter Center pre-election statement (issued on December 3) were submitted before the campaign period actually began, and therefore addressed broader concerns pertaining to the legal framework for the elections.

One of the most important observations made by the first NDI/Carter Center delegation to Peru concerned the need for institutionalization of the democratic process in Peru. Indeed, many of the irregularities that occurred throughout the process were not altogether surprising, given the evident structural weaknesses of Peru's democratic system. Now that most international and Peruvian observers have agreed that the Peruvian election process failed to meet international standards, attention has turned to promoting democratic reforms that would address these weaknesses.

Throughout the electoral process, NDI and The Carter Center and others emphasized that a broad, inclusive dialogue was necessary to agree on ways to move forward. This became all the more important in the post-election political crisis. A dialogue among Peruvians should determine the steps that must be taken to resolve the electoral crisis and improve the state of democracy in Peru. This dialogue must not be restricted to government officials, but should include political parties in opposition, as well as civic, religious, labor and private sector organizations that act as intermediaries between citizens and government.

The Special Mission of the OAS in Peru, established in response to OAS General Assembly Resolution 1753, is an important vehicle to promote dialogue. The Special Mission inherits the good will and credibility established by the OAS Election Observation Mission, ably led by former Guatemalan Foreign Minister, Dr. Eduardo Stein. Discussion by Peruvians about steps to overcome the crisis of legitimacy may require more than one avenue of discourse and should not be restricted to a narrow agenda. As noted in the NDI/Carter Center post-election delegation statement, all appropriate and peaceful ways to recover democracy in Peru should be discussed, including the possibility of organizing a referendum, other means of popular consultations or early congressional and presidential elections to be held in accordance with democratic standards.

The Peruvian government, the opposition, and the *Coordinadora de Derechos Humanos* all prepared timetables for the implementation of the 29 recommendations for democratic reform put forth by the OAS. NDI and The Carter Center hope that a consensus can be reached among these groups to carry out all 29 reforms in a timely and inclusive manner. The Peruvian government should take immediate measures to demonstrate its good faith in moving forward with the democratic reform agenda. Only by promptly taking concrete steps can the government restore public confidence in its commitment to improving the state of democracy in Peru.

6.2 Impact of Election Monitors on the Election Process

The unprecedented mobilization of Peruvian watchdog groups and concerned members of the international community to seek a genuine, democratic election was a positive development during this year's contentious election process in Peru. The sustained level of engagement and cooperation between domestic and international observers in Peru for the 2000 elections represented a model of the type of comprehensive election observation that NDI has long been advocating worldwide.

The findings and recommendations of the long-term NDI/Carter Center election observation effort were intended to bolster the work of governmental and electoral authorities, and national observers, increase media coverage and public awareness of the election process, and provide encouragement to the political competitors. The OAS, U.S. Department of State, U.S. Congress, White House, European Union, and others expressed formal support for the joint statements made by NDI and The Carter Center.³⁶ Furthermore, by maintaining a constructive dialogue with Peruvian government and election officials throughout the election process, NDI and The Carter Center helped to encourage the Peruvian government to implement specific measures aimed at improving the credibility of the process.

The NDI/Carter Center observation mission worked in close cooperation with the OAS Election Observation Mission, as well as with Peruvian civic organizations. Throughout the election process, the role played by *Transparencia*, *Consejo por la Paz*, *Coordinadora Nacional de Derechos Humanos*, *Colegio de Abogados de Lima*, *Foro Democrático*, as well as a number of religious, business and labor leaders, and others illustrated the vibrancy of Peruvian civil society and the importance of its mobilization and inclusion in electoral and political processes.

Transparencia produced numerous, well-documented reports of election irregularities in the months preceding the election and deployed more than 19,000 volunteer election monitors throughout the country on April 9. The professionalism of *Transparencia*, demonstrated in Peru's 1995 national elections and 1998 local elections, was reflected in its reports on the 2000 election process. The pressures on this organization increased as public confidence in the electoral authorities waned. The confidence placed in *Transparencia* by the public was confirmed, among other ways, through the manner by which it conducted and reported on its parallel vote tabulation (*counto rapido*), which allowed Peruvians and the international community to expect a presidential run-off election at a time when the public was unsure that electoral authorities could properly determine the outcome of the vote. The *Defensoria del Pueblo* also made a crucial contribution by supervising the electoral process to ensure respect for human rights in conformity with Peruvian law. The *Defensoria* issued reports, conducted investigations, and deployed approximately 1,500 election-day supervisors throughout the country on April 9. This extraordinary work should serve as an example to ombudsmen's offices in other countries.

Complementing the efforts of these Peruvian organizations, the Election Observation Mission of the OAS arrived in Peru well in advance of the first round and played an effective role in identifying irregularities and encouraging the government to make improvements to the

³⁶ See Appendix Two for examples of these statements.

process. The OAS mandate in Peru went beyond that previously exercised by OAS observation missions. For example, the head of the mission was given the autonomy to issue regular, public reports on pre-election conditions, and the Mission worked in coordination with Peruvian groups as well as with other international observers. The critical contributions of the OAS Election Observation Mission in Peru, through public bulletins, formation of technical working groups between the first and second rounds and skillful use of good offices, also should serve as a positive model for future observation missions.

By working cooperatively throughout the period leading up to the elections, Peruvian and international observers were able to raise awareness, both in Peru and abroad, of serious flaws documented in the electoral process, and to propose concrete ways of improving the process. As citizens became more informed about the extent of these irregularities, public dissatisfaction with the process grew. This, in turn, increased internal pressure on the government to respect its citizens' right to a genuine, democratic election.

6.3 Lessons Learned for the International Community

The Peruvian election process has taught the international community a number of important lessons that will have lasting implications throughout the region and around the world:

- Election observers need to focus increasingly on the entire electoral process, rather than just on election day, as the structural and institutional framework and the political environment in which elections take place are critical parts of the overall process.
- The OAS observation mission, under Eduardo Stein's leadership and with a relatively broad mandate and freedom of action, played a crucial role in Peru and set a new, positive model for future OAS election observation missions.
- National, non-partisan observer groups, such as *Transparencia* and *Consejo por la Paz*, and supervisory bodies, such as the *Defensoria del Pueblo*, played a vital role in monitoring the election process and should be encouraged by the international community to continue their work in defense of democracy in Peru.
- Close cooperation among international nongovernmental election observer organizations, intergovernmental election observation missions, domestic observer groups and supervisory bodies can heighten the effectiveness of each and provide a sound basis for the international community and the general public to understand the nature of the electoral process.
- Recommendations of election observers can provide a mechanism for improving the electoral process and offer benchmarks for assessing developments in the process.
- With the emergence of populist leaders with authoritarian tendencies in Latin America, it is increasingly important to focus on the strengthening of democratic processes and institutions in the region; otherwise, structural weaknesses in democratic development will provide opportunities to supersede the will of the electorate through manipulated or

faulty elections.

- The failure to conduct genuine elections deprives the resulting government of a strong foundation based on a popular mandate, which can in turn deny it the necessary legitimacy to overcome political polarization and scandals.

CHAPTER 7: EPILOGUE

On September 16, just 50 days after his inauguration to his third five-year term, President Alberto Fujimori surprised the nation by announcing that new presidential and congressional elections would be held in as short a time as possible and that he would not participate in the elections as a candidate. He also announced that he planned to deactivate the National Intelligence Service (SIN) and to conduct a full investigation of allegations of corruption that had recently surfaced.

Two days prior to the announcement, a video tape was released to the public by a leader of the opposition political party *Frente Independente Moralizador*. In the video, the head of Peru's intelligence services, Vladimiro Montesinos, was seen bribing an elected member of the opposition to switch his party affiliation in Congress to support President Fujimori's congressional alliance. The tape, one of several reportedly obtained by the opposition, confirmed allegations of coercion used to cause opposition deputies-elect to cross over, giving *Peru 2000* a congressional majority.³⁷ Several other opposition members of Congress had previously denounced efforts to bribe or intimidate them into joining the *Peru 2000* congressional bloc, but until the release of the video, no hard evidence had emerged to substantiate the allegations.

The release of the video followed closely after another scandal in which several high-level Peruvian military officers were implicated in trafficking arms to a guerilla group in Colombia (the FARC). At a press conference in late August, Vladimiro Montesinos and President Fujimori announced that they had uncovered the ring responsible for the arms trafficking. However, Colombian officials then reported that the Peruvian government had been aware of the existence of the trafficking ring for more than a year. Moreover, evidence surfaced that fake Peruvian military identifications were used to purchase the weapons in Jordan, which were subsequently dropped by airlift to FARC forces in Colombia.

Lacking an unquestioned popular mandate and facing further revelations and intensified political polarization, President Fujimori decided to spare the country the trauma of a more protracted and heightened crisis with his announcement to call for new elections. His decision, including deactivation of the SIN, risked increasing the possibility of intervention by elements of the military, but it also met demands of the opposition and concerns of the international community. Most importantly, it demonstrated to the population that he was moving to rectify the circumstances.

Events are still unfolding in this very fluid situation. The government and opposition, however, have thus far made constructive use of the OAS Permanent Mission in Peru to advance dialogue about necessary democratic reforms and the ground rules for the

³⁷ Obtaining a congressional majority not only would allow the *Peru 2000* and the President to pursue a legislative agenda more effectively; it also would ensure against his removal from office. At the time that Congress removed the three members of the Constitutional Tribunal, it determined that only a simple majority was needed for such action. The same article of the Constitution that applied to their removal applies to the presidency.

upcoming elections. The date and specific mechanism for the elections are yet to be settled. In addition, working groups are addressing four priority areas for immediate resolution: 1) reinstatement of the Constitutional Tribunal; 2) deactivation of the intelligence services; 3) resolution of the Ivcher case – return of the rightful ownership of Channels 2 and 13; and 4) reaccepting the jurisdiction of the Inter-American Court. While there are many issues that remain to be resolved, the OAS process is making another critical, positive contribution by providing a mechanism through which Peruvians can reach a consensus on reforms that will be necessary to ensure a credible election process.

These extraordinary elections present a vital opportunity for Peru to resolve its crisis and restore democracy. To do so, however, the new elections must be held under conditions that will guarantee that those elected gain a legitimate popular mandate. Given the controversy surrounding the 2000 elections in Peru and the high levels of polarization that resulted from the flawed election process, Peruvians must work together to ensure that flaws in the process are corrected and that public confidence in the process is restored. The international community should vigorously support efforts to accomplish these goals. International monitors should play a role in supporting the process and setting the basis for public confidence in it.

Application of lessons learned from the 2000 election process in Peru will be important for all concerned. One essential lesson that must be applied in approaching the new elections is that they cannot be divorced from the broader political process and the need to strengthen related democratic institutions. Reform and rehabilitation of Peru's electoral administration is essential for the success of the new elections. Equally important will be reforms concerning the media and freedom of expression; without improvements in this regard, the electorate will not be able to obtain adequate accurate information upon which to make a free political choice. Judicial reform is necessary; otherwise, political competitors will not be confident that they will be able to seek peaceful redress of violations of their electoral-related rights. State security agencies, tax services, and administration in general (including administration of food relief and other social programs) must become politically neutral so that political contestants and their supporters can operate without fear and on a level playing field.

Political contestants must be given an opportunity to strengthen their organizational structures (parties and coalitions) through unrestricted freedom of association, assembly and movement and reasonable opportunities to convey their messages through the mass media. Political leadership, both in government and in opposition, must look beyond short-term interests and build strong political parties that aggregate citizens' interests and provide them with an avenue to participate in formation of public policy and governance. Civil society, including civic, religious, business, labor and other sectors, should be encouraged to augment the efforts of electoral authorities and the political contestants in encouraging citizen participation through civic and voter education programs and through nonpartisan election monitoring. They too need to pursue roles in strengthening democratic processes and institutions beyond elections.

The new elections cannot produce a perfect process; democracy is always in need of refinement. They do, however, present a vital opportunity to mobilize the political will of leaders in government and opposition, as well as the interests of the population, to realize the universally accepted principle that the will of the people shall be the basis of the authority of government,

and that this will shall be expressed in periodic and genuine elections.³⁸ The elections also are linked to broader democratic reforms, which are needed for genuine elections and which genuine elections can help to accelerate.

³⁸ See the Universal Declaration of Human Rights Article 21.