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THE PROSPECTS FOR FREE AND FAIR ELECTIONS IN PERU

Mr. Chairman, Members of the Subcommittee, thank you for this opportunity to comment on the electoral and political processes surrounding the 2001 extraordinary elections in Peru.

Peru is in the midst of dramatic, positive changes in its democratic development. The conditions for organizing genuine elections in 2001 have been established in Peru, and the prospects for achieving them are strong. At the same time, important challenges face Peru's electoral and broader political processes that should not be underestimated in the weeks and months ahead. Further, concerted efforts will be needed following Peru's elections to strengthen institutions and processes that are essential to a functioning democracy.

These findings were reaffirmed this past Friday, March 9, by the second joint NDI/Carter Center pre-election delegation to Peru's 2001 elections. A copy of that delegation's statement as well as a copy of the statement of the January 26 NDI/Carter Center delegation appear for the record as appendices to this testimony. The most recent delegation was the seventh multinational NDI/Carter Center election assessment delegation to Peru in the last 16 months. We have continually monitored developments over this period through our field representatives in Lima, our respective headquarters and visits in addition to our delegations. Our efforts in Peru have been funded by a cooperative agreement with USAID.

Mr. Chairman, the environment surrounding Peru's 2001 extraordinary presidential and parliamentary elections is fundamentally different from that of last year. The circumstances surrounding the 2000 elections in Peru were among the worst ever observed in this hemisphere

by NDI and The Carter Center. It is clear that the Fujimori government perpetrated election fraud. As a result, the 2000 elections failed to provide the Fujimori government with a mandate based on an expression of the will of the people. The lack of a democratic mandate contributed to that government's collapse under the weight of scandal.

The fraudulent 2000 elections exposed the corruption by the Fujimori government of the institutions and processes in Peru that are central to national development, including the electoral authorities, the courts, large segments of the news media, the military, the intelligence agencies, and the state apparatus in general, even assistance programs that deliver food to the poor. It was the forceful efforts of Peruvian democrats, in opposition political parties and alliances, in civic, religious, labor, business and professional organizations, including nonpartisan election monitoring efforts by citizen groups like *Transparencia* and *Consejo por la Paz*, by the Peruvian Human Rights Ombudsman's Office (the *Defensoria del Pueblo*) and by segments of the news media that exposed the corruption of the political and electoral processes.

The international community helped – through its assistance to those struggling for democratic elections and a fair political process in Peru, as well as through international efforts to monitor the process in a comprehensive way – to shine a spotlight on the systematic nature of political corruption under the Fujimori government. We hope that efforts of NDI and The Carter Center throughout the last 16 months have encouraged Peruvians to strive for a democratic political process that is required for genuine elections, just as we hope that our efforts helped to better inform the international community of the nature of developments in Peru.

Mr. Chairman, we would like to commend the efforts of the Organization of American States for its contributions to the electoral processes in Peru in both 2000 and 2001, through the outstanding leadership of Dr. Eduardo Stein in monitoring the 2000 elections, through the dialogue (*Mesa de Dialogo*) led by Dr. Eduardo Latorre and through the re-established election observation mission again led by Dr. Stein. We have closely coordinated our efforts in Peru with the OAS and have enjoyed the support and cooperation of the US Mission to the OAS, as well as other offices and branches of the US government, including Members and staff of this Subcommittee from both political parties. We are grateful for that support.

Experience around the world demonstrates that when a country passes through the trauma of fraudulent elections and the collapse of a government under the weight of scandal, more than the bare legal minimum must be done to reestablish the public's trust in government and confidence in the election process. I am pleased to report that the government of President Valentin Paniagua has undertaken determined steps to guarantee the political neutrality of state institutions, including the armed forces and the forces of public order. Important strides have been made under the interim government to improve the independence of the judiciary and to break the pattern of impunity for corruption and human rights abuses by the military and others. News media are operating with a new openness and in the absence of political repression. Although faced with a short time period, the reconstituted electoral institutions have made significant progress in organizing the electoral contest and restoring citizen confidence.

Recent public opinion polls show high approval ratings both for President Paniagua and for the electoral authorities. This demonstrates that Peruvian citizens appreciate the significance of the democratic reforms that are underway.

Other positive developments include the fact that seven of the eight presidential candidates or their vice presidential running mates signed a “civic pact” (*Pacto Civico*) sponsored by *Transparencia* and witnessed by the Conference of Catholic Bishops of Peru (*Conferencia Episcopala Peruana*), the OAS, the United Nations Electoral Mission and the NDI/Carter Center election observation project for Peru. Through this Pact, the political contestants pledge to campaign based upon mutual respect, to debate issues and programs of public import and to eliminate politically motivated violence, intimidation and reprisals. A blue ribbon commission organized by *Transparencia* is acting to help the candidates respect their pledge.

Electoral authorities are making concerted efforts to prepare for the elections. While much remains to be done in the 25 days before the election, a number of critical steps have already been completed, including: evaluating and replacing personnel at the electoral tribunal (the JNE) and the electoral administration body (the ONPE), where 78 percent of former staff have been replaced; hiring and training approximately 12,000 temporary election employees; identifying the thousands of officials who will work the polls on election day; opening 49 Decentralized Electoral Process Offices (ODPEs) and Special Election Tribunals (JEEs) nationwide; initiating the printing of the voter lists, tally sheets and the ballots; designing a new software program to tabulate the election results; and submitting a copy of the new software to political party representatives and election observers for their review. Political contestants are being provided with substantial free broadcast time on national radio and television stations to present political messages, which is another important improvement from the 2000 elections.

Voter education remains a central need, particularly in light of Peru’s newly adopted system of 25 multi-member electoral districts for determining Congressional representation. Electoral authorities are conducting a voter education campaign in several languages through the mass media, and 250 full-time “election promoters” are working on the campaign throughout the country. Civic organizations are also conducting voter education.

The candidates and political alliances are paying increased attention to training their pollwatchers and other agents to review technical and legal issues. Political parties, however, remain organizationally weak in Peru. Citizen organizations, particularly *Transparencia* – which has played a vital role in guarding the public’s interest in Peruvian elections since 1995 and which carried the weight of the country by demonstrating that a presidential runoff was required last year – is actively monitoring the election process. NDI is proud of our relationship with *Transparencia*, which began with its founding and included technical assistance throughout its formative stages. *Transparencia* has found that the electoral registry is sound. It is monitoring media access for the political contestants and other pre-election issues and will once again mobilize thousands of election-day observers and conduct a rapid, independent evaluation of the vote tabulation process (a quick count).

The Human Rights Ombudsman’s Office (*Defensoria del Pueblo*) established 25 mobile election teams, which are working in coordination with the *Defensoria*’s eight permanent offices around

the country to supervise the electoral process at the local level. In addition, the ONPE and the *Defensoria* are collaborating in the operation of the recently inaugurated “Office of the Defense of the Voter,” to receive electoral complaints relating to the ONPE or ONPE personnel. These efforts, as well as those of *Transparencia* and others, illustrate the continued strength of domestic election monitoring for the upcoming elections.

Mr. Chairman, in addition to these developments there are a number points of continuing concern for the Peruvian election process. The Peruvian population understandably retains a degree of unease about the possibility that elements of the former regime might undermine the election process in order to derail reforms, prevent themselves from being held accountable for abuses and weaken the mandate of the government that will result from the elections. The best way to address this concern is to encourage broad citizen participation and effective watchdog activities of organizations like *Transparencia* and the *Defensoria del Pueblo*. Of course, international election observers can also contribute to deterring manipulation of the process and to promoting public confidence.

An additional concern is the potential for political competition to become acrimonious to the point of hindering the election campaign and discouraging citizen participation. Several recent campaign incidents highlight this possibility as both the presidential and congressional elections enter the final stretch. Confidence in the electoral process is fragile, given the experience of the 2000 elections, and efforts are needed to encourage contestants to honor the political rights of their competitors, as pledged in the civic pact and required by law. Civic and religious leaders are exercising their moral authority through the commission to help enforce the civic pact, and electoral authorities should work to improve communications with political contestants down to the local level to ensure respect for the law.

The continuing investigations of corruption under the Fujimori government, including the release of the “Montesinos videos,” present extraordinary opportunities to identify the nature and breadth of that government’s efforts to illegally monopolize power. The incontrovertible evidence being discovered also provides the basis to dismantle the network of corruption that subverted Peru’s democratic development. At the same time, the revelations create a potential for citizens to become distracted and even disaffected from government and the political process, unless the investigations are conducted with dispatch and with respect for the rights of those who may be implicated. The assignment of additional professionals, with well-defined and transparent procedures will help to avoid or minimize the negative potential of this process.

Another concern is that citizens obtain adequate accurate information upon which to make an informed choice at the ballot box and in order to maintain and build confidence in the electoral process. Efforts at voter education and access to national broadcast media will help voters to make informed choices. Voter choices in the congressional election will require sufficient information about the contestants outside Lima; however, free media access does not extend to local broadcast media. It is hoped that arrangements will be made to ensure that voters in all 25 election districts receive adequate information to make an informed and free choice on election day. Of course, the political contestants must direct their campaigns to substantive issues and programs, rather than concentrating on personal attacks. In addition, we hope that electoral authorities clear away all obstacles to citizens receiving timely information about election

results, including reports on the quick counts conducted by *Transparencia* and others. Such information will limit the possibilities for misinformation causing tensions on election night and immediately following election day.

Mr. Chairman, Peru is facing pivotal elections. The prospects for genuine elections are good. If those prospects are realized, the resulting government will have a sound popular mandate to face the challenges of improving economic and political development in that important country. What happens in Peru is significant beyond its borders – not just in the Andean region but throughout this hemisphere and beyond. It is not too much to say that the world is watching Peru.

It must be stressed, however, that the elections themselves will mark one critical point in a larger effort of democratic reform in Peru. The Fujimori regime so weakened the institutions and processes that are vital to a democracy that a re-institutionalization effort will be needed.

The re-institutionalization being called for by Peruvians concerns constitutional issues affecting the balance of powers, strengthening the role of the legislature, ensuring the independence of the judiciary, as well as normalizing civil-military relations, building strong and responsive political parties and enhancing the roles of civic organizations and citizen participation in democratic governance and the political processes. The Peruvian electoral process deserves continued international support, and international assistance for those striving to advance democratic development in Peru will continue to be crucial beyond the elections.

APPENDIX I

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

Lima, March 9, 2001

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

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

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

SUMMARY OF OBSERVATIONS

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

Important steps have been taken to overcome most of the specific obstacles to the conduct of a successful election identified by NDI and TCC in January. These positive developments are specified later in this report. Nevertheless, there remains some reason for

concern. The abuses of the Fujimori-Montesinos regime have left a legacy of public skepticism and suspicion that Peruvians are still struggling to overcome. This climate of mistrust is being exacerbated by the increasingly competitive electoral race.

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

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

DEVELOPMENTS IN THE ELECTORAL ENVIRONMENT

Congressional Lists

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

The Election Authorities and the Electoral Timeline

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

In a further demonstration of openness and transparency, both the ONPE and the JNE are making extensive use of electoral experts from around the world to achieve their common goal

of a credible election process. The ONPE has put a number of safeguards in place to ensure the technical accuracy of the vote count. Private companies will carry out an independent audit of the new computer software program. In addition, the ONPE will conduct two vote simulations to test its computer systems and correct any deficiencies as necessary.

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

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

ONPE or ONPE personnel. The *Defensor* reports that this Office has received very few substantive complaints thus far.

- The leadership of the armed forces has made a clear public commitment to preserving neutrality in the election process, although there are still some concerns about how these instructions will be carried out at the local level. Given the assurances provided by the military and the many logistical hurdles that the election authorities face, the authorities may want to consider accepting logistical support from the military where appropriate.
- The *Consejo Nacional de la Magistratura* has been reconstituted as an independent and autonomous entity and is committed to phasing out provisional judges in the judicial system.
- The Waisman Commission, charged with investigating the bank accounts and financial corruption organized by Montesinos, has released two reports since the last NDI/TCC delegation, and the Peruvian Congress has approved an extension of the mandate of the Waisman Commission until May 30.

THE DELEGATION AND ITS WORK

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

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

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

CONCLUSIONS AND RECOMMENDATIONS

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

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

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

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

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

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

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

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

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

- **6) Investigations of Corruption**

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

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

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

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

ISSUES FOR FUTURE ELECTORAL REFORM

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

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

APPENDIX II

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

Lima, January 26, 2001

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

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

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

SUMMARY OF OBSERVATIONS

Peru is in the midst of dramatic, positive changes in its democratic development. The environment surrounding the 2001 extraordinary presidential and parliamentary elections is fundamentally different from that of last year. All of those with whom the delegation met expressed a high degree of confidence in the integrity of the new leaders of government and of the electoral authorities.

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

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

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

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

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

POSITIVE DEVELOPMENTS IN THE ELECTORAL ENVIRONMENT

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

- An independent prosecutor and a special congressional commission have been investigating the massive network of corruption used by the Fujimori regime to maintain its power. This network is being revealed in large part through video tapes compiled by the former head of the intelligence service, Vladimiro Montesinos, who is now a fugitive from justice.
- The culture of impunity has been further broken by investigations of the military’s connection to the network of corruption. More than 40 generals have been separated from military service as part of efforts to “rationalize and re-institutionalize” the military.
- Steps are being taken to end the provisional status of judges and provisional mechanisms that undermined the independence of the judiciary.
- The three justices of the Constitutional Tribunal, who were wrongly removed from office due to their issuing an opinion against a law which authorized then-President Fujimori to seek a third term, have been reinstated to the Tribunal.

- Peru has returned to the jurisdiction of the Inter-American Court of Human Rights.
- News media are operating with new openness and in the absence of political persecution.
- Television Channels 2 and 13 have been returned to their owners, and Radio 1160 expects to reacquire its transmitters soon.
- Registered political parties are to be provided free of charge 10 minutes per day on the broadcast media, during the 60 days prior to the elections; this free time (*franja electoral*) is to be guaranteed by public funds to be provided by the ONPE.
- Government advertisements, with limited exceptions, are to halt for the 60 days prior to the elections.
- Civic, professional and religious organizations are planning to monitor the election process, to educate and to mobilize greater citizen participation.
- The military has demonstrated its professionalism and respect for civilian authority through the transition to the new government. The President, the Minister of Defense and the Commanders of the three branches of the armed forces have ordered political neutrality of military units. The Minister and the Commanders made a public commitment to support democracy and to maintain political neutrality at an unprecedented news conference this week, which was held with the NDI/Carter Center delegation.
- The JNE has been reconstituted, and it is taking steps to ensure the integrity of the election process, such as calling for an examination of the electoral registry (*padron*).
- The ONPE's leadership has been replaced, and the ONPE is reorganizing itself as it works to prepare the elections. A new spirit of openness has been established at all of the electoral authorities, including the initiation of a coordinating group within the ONPE for the political parties (*mesa de coordinacion con los partidos politicos*).
- *Transparencia* examined the electoral registry produced by RENIEC and determined that it is sound. The examination was conducted through an agreement with the JNE.
- Candidates and political parties have been registered for the elections, even though some questions have been raised about the signature collection and verification processes.
- After an intense public discussion, a political agreement was reached to restructure the election system into multiple districts.

CHALLENGES IN THE 2001 ELECTORAL PROCESS

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

- The elections are only 71 days away, which necessitates a tight election calendar (*cronograma electoral*). With great effort and if there are no delays, the ONPE should be able to organize elections properly for April 8. However, if further changes are made to the electoral process that require additional time, it will be extraordinarily difficult for the ONPE to meet the requirements of an April 8 electoral timetable.
- There are 10 certified candidates for the President of the Republic. Only one will win the office, and only two will enter the second round run-off if none obtains 50 percent plus one vote on April 8. Electoral competition for the Presidency therefore may become antagonistic, which could also be true for Congressional seats in the country's 25 new

electoral districts. Nonetheless, the political environment remains fragile due to extreme political polarization in the recent past. The political contestants therefore will have to find ways to maintain civility in their respective campaigns.

- The past regime created an intricate and far-reaching web of corruption. Revelations about the corruption are continuing day-by-day. While investigations and prosecutions of those involved in the corruption are necessary, the potential exists for excesses that could affect innocent people. In addition, should revelations continue over a protracted period, the public could become distracted or even alienated from the election process. Balancing these competing interests will require careful attention.
- Last year's elections suffered from a number of manipulations, including of the media and of election results. As a consequence, a legal prohibition against publishing opinion polls about candidate choices will be enforced for one week before the elections; pollsters will be required to register with the JNE; no exit polls will be allowed on election day, and no independent vote projections (*conteos rapidos*) may be published until the ONPE has released official results or 10:00 p.m. arrives on election night. The combination of these restrictions will prevent the public from receiving available, relevant information. With this news blackout, various political contestants could claim victory early on election night, which could cause confusion and undermine confidence in the election process. It would be important to find a less restrictive balance more favorable to allowing the public to receive timely, relevant information from the media until close to election day and soon after the polls close.
- Many important steps have been taken in Peru to prevent manipulation of election and political processes. Some officials from the old regime, who rigged the last elections, however, may seek to sow confusion or obstruct the 2001 election. Maximum efforts to organize the elections properly and to ensure their integrity by the election authorities, political contestants, mass media and citizens organizations will be the best way to prevent attempts to undermine the process.
- Organizing genuine democratic elections this year will require the mobilization of tens of thousands of citizens. Broad campaigns will be necessary to inform citizens of the need to participate in the election process as voters, political party pollwatchers (*personeros*); electoral officials (*miembros de mesa*) and as nonpartisan election monitors (*observadores*). The mass communications media will be central to a successful citizen mobilization. Those who control media outlets therefore will have to find ways to address the national interests for citizen participation.
- While great efforts will be needed to organize successful elections, longer-term issues for democratic and economic development will extend well beyond the elections. Political contestants, the mass media and citizens themselves therefore will need to find ways to introduce into the election campaign such longer-term issues.
- According to electoral legislation, polling stations (*mesas de votacion*) may have no more than 300 registered voters. In practice, tables rarely have more than 200 voters, resulting in

approximately 89,000 polling stations in Peru. This creates a huge burden for recruiting, training and deploying election officials, political party pollwatchers and nonpartisan election monitors. It is common in other countries to have many more voters assigned to each polling station. Increasing the number of voters per polling station by two or even three times, where distances and populations allow an increase, would improve the capacities of electoral authorities, parties and candidates and citizen groups to staff the stations. Although not approved for 2001, this should be considered for elections after this year.

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

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

THE DELEGATION AND ITS WORK

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

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

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

CONCLUSIONS AND RECOMMENDATIONS

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

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

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

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

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

- **2) Civility Is Needed in the Election Campaign.** Elections provide a means for peaceful competition for public office, which nonetheless tends to foster sharp exchanges among candidates and political parties. The parties have agreed to restrict painting campaign slogans in certain places, and *Transparencia* and Prime Minister Perez de Cuellar both have proposed that agreements be reached for proper campaigning . The delegation recommends that the candidates for president and the leaders of the political parties participating in the 2001 extraordinary elections sign such agreements to respect the law, the rights of voters and each other’s civil and political rights through the campaign and thereafter. The agreement should include a pledge to train their supporters in the law and a code of conduct corresponding to their agreement. The agreement could be witnessed by organizations and personalities, such as *Transparencia*, the Conference of Catholic Bishops (*Conferencia Episcopal Peruana*) and other religious, professional, business and civic organizations or leaders. That would add moral force to the agreement and send a positive signal to the population.
- **3) Timely Review Is Appropriate for Corruption Proceedings.** Careful review of the “Montesinos videos” and other material concerning the network of corruption of the prior regime is required to prevent any unfair damage to the reputations of people who may appear in those materials but who were not involved in wrongdoing. At the same time, daily release of such materials throughout the election period could distract and even alienate citizens from the election process. The delegation therefore suggests that consideration be given to applying additional professional resources so that the materials can be reviewed properly and be released in a timely fashion.
- **4) Citizens’ Right to Information Is Central to Proper Elections.** Preventing undue influence on voters of inaccurate or potentially prejudicial information appears to be the basis for various legal restrictions affecting release or publication of opinion polls, exit polls and quick counts concerning election results. The right of voters to information about the elections as well as press freedoms also must be taken into account. The delegation recommends that consideration be given to dropping the registration requirement for opinion pollsters (or minimizing it), that the restriction against immediate release of quick count information be lifted, and that the limitation on publishing opinion polls be reconsidered. The delegation commends ONPE’s efforts to provide real-time access to its computerized vote tabulations on election night and encourages that its computer software be tested in the presence of parties and impartial observers.
- **5) Broad Citizen Mobilization for the Election Process Is Needed.** The will of the people expressed freely through genuine elections is the basis of authority of any democratic government. This is an extension of the internationally recognized fundamental right of citizens to participate in government and public affairs, directly by standing for office or indirectly by choosing representatives. Broad citizen mobilization as voters, party pollwatchers, polling officials and impartial election monitors is therefore needed to ensure a truly democratic election process. The delegation urges the ONPE, political parties, civic, religious, business and labor organizations, as well as the mass communications media, to call on citizens to participate in monitoring the election process.

- **6) The Mass Media Should Assist Citizen Mobilization and Civic Education.** The news media is a key element to providing citizens with adequate, accurate information upon which to make a free choice at the ballot box. The media has a new opportunity to meet their responsibilities to provide accurate and balanced news coverage of political contestants and issues that affect voter choices. Professional responsibility is the key to this effort, and the delegation recommends that media outlets, as well as media and journalist associations, adopt a code of conduct for responsible coverage of the election process and the political process beyond the elections. The government and political parties reached an agreement as an outgrowth of the OAS dialogue, which provides for free broadcast media access for parties participating in the elections (*franja electoral*), to be guaranteed by public funds. This should be usable at the discretion of the parties for print media as well. In addition to this, media outlets should offer free time to civic and other groups for voter education and calls for citizen mobilization for the election process. During last year's elections, media owners provided some free time to political contestants; similar amounts could be provided to civil society groups this year.
- **7) Further Consideration Seems Warranted for Replacing Some Officials.** Many officials of the prior regime have been replaced, and it is appropriate that those with integrity remain in their posts. Suggestions have been made by political parties and others to review prefects, governors and some other officials who serve at the will of the Ministry of Interior and to replace some such people with mayors, who have an independent elected mandate. Further consideration of such measures seems warranted to protect the elections and broader political processes from those who might seek to impede proper elections. The Ombudsman's Office could play an important role in reviewing any allegations that local officials may be acting to undermine electoral-related rights and claims that the rights of such local officials could be violated by false allegations.
- **8) Dialogue about Democratic Reforms Should Continue after the Elections.** The 2001 extraordinary elections are being prepared in the context of dramatic, positive changes in Peru's democratic development. They also are taking place in a compressed timeframe and under ground-rules that were in many instances agreed in order to move quickly to establishing a government based on a popular mandate. The official components of the OAS dialogue headed by Eduardo Latorre have ended, but mechanisms such as ONPE's political party liaison meetings (*mesa de coordinacion con los partidos politicos*) and other efforts are continuing to build on the OAS process. The OAS observation mission again to be headed by Eduardo Stein, who conducted admirably last year's OAS election mission, will undoubtedly contribute to further dialogue during the election process. The dialogue process, however, should not stop with the elections. The delegation hopes that genuine, open dialogue continues in the post-election period to frame lessons learned from these elections and address the continuing need to improve Peru's democratic process.

The delegation was heartened by the positive developments it observed and by the firm expressions of political will it received from governmental, political, military, civic and religious

leaders to organize open, democratic elections. NDI and The Carter Center will continue to monitor Peru's 2001 extraordinary elections and the surrounding political environment through its representatives in Peru and future delegations. Further statements and recommendations will be released as the election process develops.