

# Deconstructing Democracy: Peru Under Alberto Fujimori

## Executive Summary

The Peru inherited by President Alberto Fujimori was far from democratic. The violence unleashed by Sendero Luminoso had ravaged the country. Despite twelve years of uninterrupted civilian rule, democracy had hardly taken root in Peru and emergency measures to counter guerrilla violence restricted many civil liberties and freedoms. The 1979 constitution delegated excessive powers to the executive branch and failed to establish effective mechanisms for transparency and accountability, and few would defend the poor track record of the Peruvian Congress or judiciary prior to 1992. There is no doubt that when President Fujimori took office, the country was in a state of economic, social and political chaos. The April 1992 autogolpe, or presidential coup, did lead to the re-establishment of a sense of order and security. Unfortunately, however, President Fujimori has failed to deliver on his initial promise to reconstruct democracy anew. On the contrary, the past decade in Peru has witnessed the steady dismantling of the basic institutional structures of democratic governance.

The widespread international condemnation of anti-democratic practices in Peru following the 1992 autogolpe largely ceased after the 1995 presidential elections, which President Fujimori won handily. As the internal war subsided following the capture of Sendero leader Abimael Guzmán in September 1992, the egregious human rights violations that characterized the first years of the Fujimori government slowed to a trickle. Fujimori supporters claimed that Peru had re-entered the democratic fold. Yet almost immediately after entering into its second term, the Fujimori government initiated a series of undemocratic measures, many of which violate the very constitution it crafted. The fundamental institutional guarantees needed to ensure respect for and protection of human rights and democratic practices are more distant than ever. The immediate human rights crisis came to an end, but in its wake came the crisis of democracy that dominates political life in Peru today.

Likewise, the Fujimori government has brought economic order and growth, but has failed to deliver on promises of shared prosperity. Social spending has mitigated the impact of rural poverty in particular – indeed, over 42 percent of Peruvian households now receive some form of government food aid – but employment remains elusive and wages are woefully inadequate for the bulk of the population. Of particular concern, long-term economic growth and stability necessitate good governance and strong and effective civilian institutions. Setbacks in this realm threaten Peru's long-term economic health.

The measures taken first to combat the guerrilla insurgencies and then to consolidate the present government's hold on power have seriously eroded both the rule of law and the tenuous balance of powers that existed in Peru prior to the April 1992 autogolpe. In Latin America, the executive branch has traditionally exercised significantly more political power compared to weaker legislatures, and judiciaries are often subject to political intervention and manipulation. In the case of Peru, however, the scales have tipped well beyond the norm. Excessive power is concentrated in the hands of the presidency, supported by the exceptionally powerful National Intelligence Service (SIN) and the military high command. Beyond elections, there are few mechanisms for transparency or accountability.

Three issues of concern arise with regards to the Peruvian Congress. First, electoral changes have resulted in significantly less of the Peruvian population enjoying representation in Congress. Second, the pro-Fujimori majority in Congress is often perceived as serving at the behest of the president, rubber-stamping legislation initiated by the executive and preventing serious investigations in cases where significant evidence exists of wrongdoing by government authorities. Finally, the Congress often violates its own procedures and the constitution, passing dozens of unconstitutional laws.

The executive branch has also increasingly brought the Peruvian judiciary under its control. While Peruvian judicial authorities were long subject to political manipulation, this trend has significantly worsened under the present government. The judicial reform effort which the Peruvian government embarked upon after the autogolpe appears to have resulted in some gains in efficiency and reduced corruption. However, the reforms are the primary mechanism by which the executive branch has extended its reach over the judiciary, allowing the executive to influence the outcome of politically sensitive cases and to use the courts as a tool for asserting its political control. The continued status of most judges and prosecutors as “provisional,” rather than permanently confirmed in their posts, is another mechanism by which the executive influences the judiciary. The government’s lack of political will to promote the rule of law was vividly illustrated by the gutting of the Constitutional Tribunal, equivalent to the U.S. Supreme Court, and then by Peru’s withdrawal from the jurisdiction of the Inter-American Court of Human Rights of the Organization of American States, in direct defiance of its international obligations.

The imbalance of power between the executive, legislature and the judiciary is further exacerbated by the relationship between President Fujimori, the SIN and the military high command. President Fujimori’s power depends heavily on the penetrating power and influence that these forces have gained under his government and on the use of the SIN in particular as an instrument of repression. The SIN, to a large degree, has become Peru’s political police, charged with stifling political opposition, independent reporting and other perceived threats to the present government. The means by which it does so – harassment and intimidation, death threats, the manipulation of court cases and blackmail – resemble the worst features of a totalitarian government. Comparatively insignificant prior to 1990, the SIN has grown enormously under the present government with regards to both its power and resources.

Many of the setbacks to democratic institution-building in Peru in recent years appear oriented toward ensuring a third electoral period for the present government. The Congress is the vehicle by which constitutional restrictions have been set aside; with no Constitutional Tribunal to provide checks and balances on the Congress, these laws go uncontested. The government’s influence over the judicial branch has also facilitated its ability to influence key electoral agencies. Judicial authorities play a key role in naming top officials to the electoral agencies and in overseeing the process on election day. Finally, both the SIN and the military play a crucial role on the campaign trail and in ensuring government support on election day. Taken together, these actions suggest a systematic plan to pave the way for an April 2000 victory for President Fujimori.

### **The April 2000 Elections**

On April 9, 2000, Peruvians will go to the polls to elect a new president and Congress – elections in which President Fujimori is running for a third term in office. Already, many prominent Peruvians and different sectors of Peruvian society have questioned the credibility of the electoral process. The elimination of legal impediments to a third presidential bid have provoked significant controversy, and many question whether or not a third term is constitutional. Article 112 of the 1993 Peruvian constitution states: “The presidential term is for five years. The president can be immediately re-elected for a presidential term. After one additional presidential term, at a minimum, the ex-president can run again, subject to the same conditions.” In other words, the present constitution allows for only two consecutive terms. President Fujimori justified his decision to run again on the need to maintain his present policies and to avoid returning to the chaotic situation he inherited.

There are also widespread concerns regarding the government’s influence over the electoral apparatus, ongoing problems with the voter registry that could facilitate fraud, the use of state resources for electoral purposes (to an extent well beyond traditional practice) and the opposition candidates’ lack of access to Lima-based television and other pro-government media. In addition, a campaign of surveillance, harassment and intimidation of opposition candidates and their supporters, apparently orchestrated by the SIN, is further tipping the electoral playing field in

favor of President Fujimori. If present trends continue, President Fujimori will enjoy unfair advantages during the campaign and on election day – advantages that go well beyond the norm for presidential incumbents.

As a result, opposition candidates stress that their decision to participate in the electoral process should not be viewed as accepting that process as fair or legitimate. More generally, Peruvians' faith in the country's electoral system is wavering. Relative to other Latin American countries, Peru's elections were, prior to 1995, generally considered to be fair and were rarely questioned at the national level. However, that perception has changed within Peru: nearly 75 percent of the population now doubts the fairness of the electoral process. Ultimately, lack of public confidence in the process itself means that those elected may lack legitimacy and public trust.

Finally, restrictions on freedom of the press both distort the electoral process and further erode democratic developments in Peru. Among those monitoring freedom of the press in Peru, a consensus exists that the country has a vigorous cadre of journalists whose investigative reporting remains extremely significant and that overt censorship of the press remains rare. However, the government has developed a range of coercive tactics to control at the national level all but a limited sector of the print media, thereby limiting what most Peruvians read, see and hear via the media. While the government's ability to exert its control over provincial press is weaker, the independent press outside of Lima is also more vulnerable to intervention, threats and attacks.

The issue of freedom of the press is just one indicator of the costs of Fujimorismo for Peru's long-term development. Over the course of President Fujimori's second term in office, the movement away from democratic consolidation has intensified, and it is increasingly difficult to characterize the present situation in Peru in nuanced terms. In many ways, Peru represents a new form of "hybrid authoritarianism," where the formal trappings of democracy are maintained, but are often neutralized. The institutional underpinnings of representative democracy are increasingly restricted. The Fujimori approach to governing has brought order in the short term, but has undermined the very institutions needed to ensure order, stability and good governance in the future.

### **The Role of the U.S. Government and Regional Implications**

Over the last seven years, the U.S. government has often played a positive role in promoting human rights and democracy in Peru. It led the international condemnation of the April 1992 autogolpe and pressed for the election of a new Congress in late 1992. While the attention of Washington policy-makers largely turned elsewhere following the 1995 Peruvian presidential elections, the former U.S. Ambassador to Peru, Dennis Jett, spoke out regularly, expressing concern when major setbacks to democratic institutions took place or unconstitutional laws were approved. However, the impact of the United States' public stance on human rights and democracy issues in Peru is offset by the lack of sustained attention from Washington and a desire to avoid conflict in Peru given the other crises in the Andean region, and is undermined by an increasingly pragmatic approach to the Fujimori government as Washington seeks continuity with both anti-drug and economic policies. U.S. support to the SIN for antinarcotics purposes provides the most visible example of how what are perceived as pragmatic policies in one area undermine U.S. objectives in another.

The U.S. and other governments should use their influence and leverage to help Peru move back on a democratic path. As the first of the region's new authoritarian populists to emerge and consolidate power, President Fujimori may portend a disturbing new trend – one that moves away from democratic consolidation toward the dismantling of the institutional underpinnings of representative democracy. If left unchecked by the international community, Fujimori could send ripple effects across the region as others seek to emulate his combination of strongman tactics and populist appeal.

As Fujimori seeks a third term in office, it is worth reflecting on what he promised to do over the last decade, what he has delivered and failed to deliver, and the price paid. This report analyzes these issues, focusing on key institutional indicators of democratic governance: the balance of powers and the rule of law; the role of the armed forces and intelligence services; the electoral process and freedom of the press. It lays out the patterns and tendencies at play in Peru at the present time, covering the latter years of Fujimori's decade in office through the end of 1999. The report concludes with reflections on challenges for the future and U.S. policy toward Peru. The central recommendations for U.S. policy are:

1) U.S. government officials, and the new U.S. Ambassador to Peru in particular, should continue to speak out regularly and forcefully on human rights and democracy concerns in Peru. These should take the form of public statements, press releases and other official announcements and should be embraced by those advocating U.S. economic interests in Peru, such as the U.S. Special Envoy for the Americas, Kenneth McKay.

2) U.S. funding channeled through USAID to support human rights and democracy in Peru – and civil society initiatives more broadly – should be increased. USAID should maintain its present prioritization of democracy-building efforts in Peru and should put forward its Peru program as a model for programs in other countries of the region.

3) U.S. government officials should speak out more forcefully on the flaws in the electoral system and within the institutions responsible for overseeing the electoral process. While it is too late in the game to change the electoral rules, in the least, the U.S. government should encourage the following:

- Free and guaranteed access for all presidential candidates to television and radio coverage.
- An immediate end to all forms of harassment and intimidation of political opposition candidates and their supporters.
- The establishment of clear guidelines prohibiting the use of state resources for electoral purposes and prohibiting the role of public functionaries in campaigning; the discontinuation of state-financed media campaigns in support of the president's re-election effort.
- Significant improvements in the accuracy of the voter registry.
- Guarantees that all of the personeros and accredited observers receive a copy of vote tallies upon request and that they will be allowed to carry out their functions without interference on election day.
- An independent supervision of the ballot-counting for both presidential and congressional candidates.

4) All U.S. assistance to the SIN should be discontinued; counternarcotics assistance should be channeled through civilian police agencies. U.S. officials should avoid actions or statements that can be interpreted as support for SIN activities, be they related to counternarcotics or counterterrorism. U.S. officials should publicly support investigations of corruption and human rights abuses allegedly committed by SIN or other intelligence or military agents.

5) The informal prohibition on aid to the Peruvian army should be continued; aid provided to the Peruvian navy should be closely monitored to ensure that assistance is in compliance with the Leahy amendment prohibiting U.S. assistance to any unit of the security forces of a foreign country if there is credible evidence that members of that unit committed a human rights violation and adequate measures are not being taken to bring those responsible to justice.

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