

# Report

Special Issue The Newsletter of the FIDH

## International Electoral Observation Mission

# Peru

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### Delegates

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**Roland Anrup**, Historian

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CMDPDH (Mexican Commission for the  
Defence and Promotion of Human Rights)

## **Electoral Observation Mission in Peru**

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## **Electoral Observation Mission in Peru**

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### **Presentation**

The FIDH, whose Headquarters are in Paris, is an NGO dedicated to the promotion and protection of Human Rights. It was founded in 1922 and is currently constituted of 105 member organisations worldwide. The FIDH enjoys consultative status at the UN and UNESCO, and also advises the Council of Europe's Directive Committee for Human Rights and the African Commission on Human and People's Rights.

The FIDH has been carefully and closely monitoring the evolution of democracy in Peru, with Judicial Observation Missions, Investigation Missions, and legal cooperation activities. On this occasion it has sent an Electoral Observation Mission because of concerns surrounding the forthcoming election in April 2000.

This Observation Mission is to carry out its work in two phases, the first of these being between 4 and 14 February and the other at the end of March. During the first stage, the Mission comprising Mariclaire Acosta, Roland Anrup and Bianca Jagger, met with representatives of the State, the government, political parties, and members of civil society.

### **Aims of the Electoral Observation Mission**

To assess the conditions in which the election of April 2000 will take place, and help to make a fair and democratic election possible in Peru.

To raise awareness both nationally and internationally on the need for a fair and democratic election in Peru.

### **Lack of a constitutional state**

This Mission focused on the electoral process in the general context of human rights in Peru. Previous FIDH Missions, comprising judges and lawyers, have reported the lack of a state of law in the country, describing the situation as being like a "permanent coup d'état".

This election holds great significance for the future of democracy in Peru. We have noted unequal competition between opposition groups and the State machine. The Mission has observed strong controversy surrounding re-election of the president, including irregularities in the Constitutional Tribunal followed by the dismissal of three judges who were opposed to the re-election of the president. The Constitutional Tribunal has been disbanded, leaving Peru without a constitutional monitoring body.

The Mission has noted irregularities in the legal institutions, including the Judicial Authority and the Public Ministry controlled by Executive Committees, as well as changes to rules regarding electoral organisations.

Reports that the Judicial Authority is being used to persecute and harass the opposition are particularly significant.

The imbalance of power between Executive, Legislative and Judicial is reinforced by relations between the President, the SIN and military leaders. It is common knowledge that, with the support of Army leaders and the SIN (National Intelligence Service), the Presidency has accumulated excessive power and created heavy dependency on these organisations.

The interference of the SIN in public and private matters, in the administration of justice, (which is supervised by Executive Committees) and in the investigation of common offences, distorts the independence of power, subordinating its natural role of looking after the security of the country and turning it into a tool of the Executive Power. Telephone tapping is also common, and is attributed to the intelligence services and / or the security forces.

There are numerous reports from the media and journalists identifying the SIN as the source of threats and intimidation. The despoilment of Frecuencia Latina (Canal 2) is perhaps the most relevant example of this. The SIN has also been held responsible for smear campaigns aimed at journalists and opposition candidates, through the gutter press and the Internet. To date, none of the victims of the campaigns has been able to lodge an appeal successfully.

Some parts of the country are still in a state of emergency, and a few local authorities are run by the Armed Forces. The president's offer to lift the state of emergency at the beginning of February, just weeks before the elections, has not materialised. The deterioration of the state of Law, the dismantling of the democratic institutions, and the intention of the Peruvian State to remove itself from the jurisdiction of the Inter-American Court of Human Rights, aggravate the situation of those individuals and organisations who lack the resources of basic and effective protection of their rights.

### **Misuse of resources by the State**

There is an excessive number of welfare staff in the Presidential Ministry, which adds to the imbalance of power discussed above, and markedly contributes to the inequitable competition in the electoral contest.

This Mission has received repeated reports of public resources intended for government social programmes being used to help gain support for President Fujimori's candidacy. This is a matter for grave concern, as it goes against prevailing legislation, ruins any hope of a remotely fair electoral contest, and is an assault on the dignity of the individual.

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Throughout society there is widespread fear of reprisals for dissent, from losing one's job or State benefits (ex: food), judicial persecution or other forms of harassment.

### **The electoral process**

The lack of any guarantees in the election process gives grounds for real concern. The National Elections Panel is responsible for monitoring the process, yet is not sufficiently independent or impartial to assure the transparency and credibility of the electoral contest.

The Special Electoral Panels, which are strictly temporary institutions, mostly comprise of stand-in and acting judges. This also calls into question the impartiality and independence of these institutions, which are the first port of call for resolving disputes in the electoral process.

The Mission has observed inequality in candidates' access to television airplay time. Television station owners use various excuses to stop parties buying advertising space in their schedules. This is unusual in Peru's recent electoral history. The National Elections Panel has not played an active role in applying the Telecommunications Law. The government has also washed its hands of the problem, crucial though it is for a fair and corrupt-free electoral process. This sort of behaviour denies citizens the right to make informed choices.

The government has recently announced that it will allocate funds to the ONPE to buy space in public media with smaller audiences. The Mission welcomes the move but considers it insufficient.

This Mission has seen how state resources have been used to promote President Alberto Fujimori's candidacy, in particular the overwhelming mass media promotion of the government's achievements in social matters and infrastructure areas, which might swing votes unfairly.

The Mission has noted numerous examples of graffiti alluding to the President's political movement in the hills around Lima, in areas under military rule. There have been reports of this sort of propaganda in public places and military establishments in Ayacucho, Arequipa and Iquitos, contravening the Election Law (articles 346 & 347). We acknowledge President Fujimori's statement that such propaganda would be removed from military establishments. This obvious example is only the most visible one of the Armed Forces interference in the election process.

Repeated attacks and harassment are aimed at opposition candidates and their supporters. Neither the National Elections Panel, nor the Judicial Authority, nor the Public Ministry, nor the government has adopted effective measures to stop them.

### **Suffrage**

The Mission has noted the extreme technical complexity of the methods used by the National Office of Elections to ensure freedom of voting on 9 April. The ballot papers, the polling booths, the actual voting process and counting of votes have all been designed to avoid where possible any misuse or tampering. This is without doubt great progress.

However slashed budgets, loss of private income and less time to carry out each step of the electoral process have caused electoral organisations to fall behind on their duties, for example the proper staffing of polling stations and of the ODPES, which could all have an important effect on the vote.

The Mission has noted widespread public fear that voting will not be a secret affair, although this is key. Many fear that the new identity documents and sophisticated IT systems will enable the State to determine how each individual and community has voted. The Mission has even received reports of threats to this effect from the armed forces.

Information from the National Elections Office on the modernisation of voting systems should help to reinforce promises of a fair election. However, we have seen that in some provinces (in particular Ayacucho) people feel they are not guaranteed a secret vote. In a culture of fear, with a particularly strong Army presence in poorer regions isolated by political violence, people end up being intimidated into voting in favour of the regime.

This Mission has received reports from prominent members of opposition parties in Ayacucho, that they were prevented by the Armed Forces from going to certain districts while the ONPE was giving election training.

The members of this Mission are seriously concerned about the role of the Armed Forces in the election. According to the Elections Laws, they have access to a copy of everything that goes on at the polling stations, including speeches by party officials. In Peru's political climate this can be very intimidating for voters, polling station personnel and party officials. There are doubts regarding the proper modernisation of the electoral register. Matters have been made worse by the refusal of the RENIEC (National Electoral Roll) to respond to requests from the parties to give them the encryption codes needed to update records properly.

## **Electoral Observation Mission in Peru**

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**In conclusion**, this Mission expresses serious doubts as to the impartiality and independence of the bodies tasked with monitoring the election, and the lack of credibility and legitimacy of the of the electoral process as a whole. We have witnessed that the actual conditions are not suitable conditions for a free, democratic and transparent elections in Peru. We fear for the authenticity of the voting which is to take place shortly.

The Mission has reported a general feeling of defencelessness – the individual versus the State - giving rise to fears that votes in favour of the presidential candidate will be the result of pressure of various kinds, and not the true expression of popular will.

In this context the election does not appear to be a free and democratic competition in which citizens can choose their preferred candidates and ideologies, but rather a process which seeks to justify or disguise what amounts to the perpetuation of an authoritarian regime with a strong military presence.

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### **Recommendations to the Peruvian State, the general public and the international community**

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1. We propose a ban on the use of State resources for promoting the president's candidacy, including suspension of inaugurations and public visits.
2. We propose that the State, under the Telecommunications Law, should grant free and equal TV airplay time to all political parties on all public commercial channels.
3. We urge the Republican Congress to reinstate the 3 dismissed judges to their posts on the Constitutional Tribunal, according to the recommendation of the Inter-American Commission on Human Rights.
4. We also urge the Peruvian State to abandon its intent to withdraw from the Inter-American Court on Human Rights.
5. We propose that the government should lift the state of emergency in areas where this has still not been done, while restoring full powers to local authorities.
6. In rural communities the Comites de Autodefensa (Self Defence Committees) should refrain altogether from getting involved in the electoral process, as their presence at polling stations can intimidate the public.
7. We urge the government, parties, citizens' organisations and the media (especially public television channels), as well as the Ombudsman, to carry out an extensive campaign on the secrecy of voting, making every effort to make sure it is kept private.
8. We urge political groups to renew their efforts to monitor the election and defend the right to vote.
9. This Mission wishes to acknowledge the work of the Ombudsman and recommends that the government, the people and the international community should support and reinforce the important work it does.
10. We call upon the international community to lend its full support to the organisations that protect the rights of the individual, like the Coordinadora Nacional de Derechos Humanos, Transparencia, the Foro Democrático, and others.
11. We recommend that the FIDH and other international organisations working to defend human rights should keep a vigilant eye on the situation in Peru all through the election, and during the establishment of the new government.
12. Finally, we call upon the US Government to withdraw its support to the SIN and to the Armed Forces in general, in view of the fact that these institutions strengthen the prevailing regime in Peru through their role in the election process and bias towards to the official candidate.

**For more details, please ask for the last  
FIDH International  
Fact-Finding Mission Report :**

**Perú**

**¿ El Golpe de estado permanente ?**

**n°275/3 - April 1999**

**This version also exists in French  
(Pérou : Le coup d'état permanent ?)  
n°275 - avril 1999**

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