THE LEGISLATURE STRIKES BACK IN PERU: THE ROLE OF CONGRESS IN THE DEMISE OF FUJIMORI IN 2000

By

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A DISSERTATION PRESENTED TO THE GRADUATE SCHOOL OF THE UNIVERSITY OF FLORIDA IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF DOCTOR OF PHILOSOPHY

UNIVERSITY OF FLORIDA

2004
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# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>LIST OF TABLES</td>
<td>vi</td>
</tr>
<tr>
<td>ABSTRACT</td>
<td>vii</td>
</tr>
<tr>
<td>CHAPTER</td>
<td></td>
</tr>
<tr>
<td><strong>1 INTRODUCTION</strong></td>
<td>1</td>
</tr>
<tr>
<td>SECTION I: THEORETICAL FRAMEWORK</td>
<td></td>
</tr>
<tr>
<td><strong>2 POLITICAL DEVELOPMENT LITERATURE</strong></td>
<td>9</td>
</tr>
<tr>
<td>Introduction</td>
<td>9</td>
</tr>
<tr>
<td>O’Donnell and Schmitter’s Reflections on Transitions</td>
<td>11</td>
</tr>
<tr>
<td>Karl and the Importance of Pacts</td>
<td>21</td>
</tr>
<tr>
<td>Shapiro and the Danger of Pacted Transitions</td>
<td>28</td>
</tr>
<tr>
<td>Huntington and the Importance of Institutions</td>
<td>38</td>
</tr>
<tr>
<td>Conclusion</td>
<td>45</td>
</tr>
<tr>
<td><strong>3 THE QUEST FOR POWER IN THE CONGRESSES OF THE UNITED STATES AND PERU</strong></td>
<td>48</td>
</tr>
<tr>
<td>Introduction</td>
<td>48</td>
</tr>
<tr>
<td>Institutionalization of the Legislature</td>
<td>49</td>
</tr>
<tr>
<td>Dodd’s Theory of Cycles of Power in the United States and Peru</td>
<td>59</td>
</tr>
<tr>
<td>Congressional Resurgence: Representation and Legitimacy</td>
<td>76</td>
</tr>
<tr>
<td>Conclusion</td>
<td>105</td>
</tr>
<tr>
<td>SECTION II: ANALYSIS OF THE 70 DAYS OF THE TRANSITION</td>
<td></td>
</tr>
<tr>
<td><strong>4 ACTORS, ARENAS AND ALTERNATIVES FOR THE SOLUTION OF THE CRISIS SEPTEMBER 14 – OCTOBER 1</strong></td>
<td>112</td>
</tr>
<tr>
<td>Introduction</td>
<td>112</td>
</tr>
<tr>
<td>Actors of the Transition</td>
<td>13</td>
</tr>
<tr>
<td>Arenas of the Transition</td>
<td>122</td>
</tr>
<tr>
<td>September 14: A Video is Leaked to the Press</td>
<td>125</td>
</tr>
<tr>
<td>Immediate Reactions to the Video</td>
<td>126</td>
</tr>
</tbody>
</table>
September 16: Fujimori’s Announcement.................................................................128
Extra Constitutional Solution vs. Constitutional Amendment Solution..............133
September 16-17: The Opposition Parties Propose an Extra Constitutional
Solution................................................................................................................134
September 18-20: P2000 Proposes to Amend the Constitution............................139
September 21–23: The OAS’s Mesa De Dialogo Implements the Constitutional
Amendments ............................................................................................................144
September 24-28: Montesinos Flees Peru and P2000 Loses the Majority in
Congress...............................................................................................................148
September 28 - October 1: Restlessness in the Armed Forces .........................151
Conclusion............................................................................................................154

5 THE OAS’s MESA DE DIALOGO OCTOBER 2 – OCTOBER 22..................156
Introduction............................................................................................................156
October 2 – 4: The Mesa de Dialogo at the Center of the Political Debate .............158
October 5 - 6: Legitimacy Crisis: The Legislators Do Not Want to Loose their
Salaries.................................................................................................................163
October 6: Congress Passes Constitutional Amendments.....................................166
October 7 - 10: Break Up of the Dialogue..............................................................167
Preparing the Censure of the Speaker.................................................................170
October 11-13: The Judiciary Recovers Its Voice..................................................173
October 13: The Censure Fails .............................................................................175
October 14 – 22: Armed Forces Pressure to Secure Amnesty and the Political
Class Denounces Military Interventionism..........................................................177
Conclusion.............................................................................................................187

6 CONGRESS TAKES CENTER STAGE OCTOBER 23 - NOVEMBER 9...........190
Introduction.............................................................................................................190
The Electoral System Debate: Background..........................................................191
October 23 – 28: P2000 Comes Apart – The End is Near......................................194
The Return of Montesinos.....................................................................................195
The Fracture of P2000 and Divisions With the Executive.......................................201
October 29- 31: Military Uprising in the South....................................................205
November 1 - 2: Ratification of the Constitutional Amendment and Liberation
of the Universities.................................................................................................207
November. 3 – 8: Creation of the Mixed District System and the Provincial
Protest ....................................................................................................................210
Background...........................................................................................................210
The Mixed District System...................................................................................212
Creation of Sub-Committee to Investigate Montesinos...........................................218
Conclusion.............................................................................................................221
<table>
<thead>
<tr>
<th>Chapter</th>
<th>Section Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>RECONSTRUCTION OF THE DEMOCRATIC. INSTITUTIONS</td>
<td>223</td>
</tr>
<tr>
<td></td>
<td>November 9 - November 21</td>
<td>223</td>
</tr>
<tr>
<td></td>
<td>Introduction</td>
<td>223</td>
</tr>
<tr>
<td></td>
<td>November 9 – 12: Under Heavy Pressure, P2000 Accepts to Debate the Censure of the Speaker</td>
<td>225</td>
</tr>
<tr>
<td></td>
<td>November 14 – 16: Election of the New Speaker: the Opposition Takes Control of Congress</td>
<td>237</td>
</tr>
<tr>
<td></td>
<td>Selection of the Candidates</td>
<td>238</td>
</tr>
<tr>
<td></td>
<td>The Campaign for the Office of the Speaker</td>
<td>243</td>
</tr>
<tr>
<td></td>
<td>November 16- 19: Rebuilding Peru’s Democratic Institutions</td>
<td>247</td>
</tr>
<tr>
<td></td>
<td>Fujimori Resigns in Japan</td>
<td>253</td>
</tr>
<tr>
<td></td>
<td>November 20 – 21: Destitution of Fujimori and Appointment of Speaker Paniagua as Transitory President</td>
<td>254</td>
</tr>
<tr>
<td></td>
<td>Conclusion</td>
<td>259</td>
</tr>
<tr>
<td>8</td>
<td>CONCLUSIONS</td>
<td>262</td>
</tr>
<tr>
<td></td>
<td>Role of International Actors</td>
<td>263</td>
</tr>
<tr>
<td></td>
<td>Separation of Powers Between the Executive and the Legislature</td>
<td>265</td>
</tr>
<tr>
<td></td>
<td>Flexibilization of Presidentialism</td>
<td>266</td>
</tr>
<tr>
<td></td>
<td>Peru’s Legislature: Strong or Weak?:</td>
<td>270</td>
</tr>
<tr>
<td></td>
<td>The Role of Pacts and the Importance of the Opposition</td>
<td>272</td>
</tr>
<tr>
<td></td>
<td>The Providential Video: Reflections About Fortuna and Virtu in the Peruvian Transition</td>
<td>275</td>
</tr>
<tr>
<td></td>
<td>The Need for Stable Institutions and Their Role in Regulating Conflict</td>
<td>277</td>
</tr>
</tbody>
</table>

APPENDIX: METHODOLOGY AND SURVEY | 281 |

LIST OF REFERENCES | 288 |

BIOGRAPHICAL SKETCH | 292 |
LIST OF TABLES

<table>
<thead>
<tr>
<th>Table</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>4-1</td>
<td>Distribution of seats in congress by October 2</td>
<td>161</td>
</tr>
<tr>
<td>4-2</td>
<td>Do you think that Fujimori should resign so that a transition government is formed or he should stay in office until July 28?</td>
<td>163</td>
</tr>
<tr>
<td>4-3</td>
<td>What is the most corrupt institution? (Spontaneous response)</td>
<td>175</td>
</tr>
<tr>
<td>5-1</td>
<td>Which of the following systems do you think is best to elect legislators?</td>
<td>218</td>
</tr>
<tr>
<td>6-1</td>
<td>Would you say that President Fujimori should?</td>
<td>229</td>
</tr>
<tr>
<td>6-2</td>
<td>Martha Hildebrandt’s approval rate as speaker</td>
<td>235</td>
</tr>
<tr>
<td>6-3</td>
<td>As a final balance, do you approve or disapprove Martha Hildebrant’s conduction of congress?</td>
<td>236</td>
</tr>
<tr>
<td>6-4</td>
<td>Do you approve or disapprove the election of Valentin Paniagua as speaker?</td>
<td>246</td>
</tr>
<tr>
<td>6-5</td>
<td>In general, do you approve or disapprove the performance of P2000 in congress?</td>
<td>246</td>
</tr>
<tr>
<td>6-6</td>
<td>Impact of Fujimori’s presence until July of 2001</td>
<td>253</td>
</tr>
<tr>
<td>6-7</td>
<td>If Fujimori resigns or is ousted from the presidency, who do you think should govern Peru until the election of a new president?</td>
<td>256</td>
</tr>
</tbody>
</table>
In 2000 a video showing a congressman being bribed to support the government provoked the implosion from within of the authoritarian Fujimori regime and created a huge power vacuum in Peru. In similar situations in other Latin American countries the military often steps into such vacuums to impose solutions. In Peru it did not happen. The legislature became the only institution capable of filling the vacuum despite the fact that this institution lacked credibility given the irregularities of the 2000 election. It regained credibility via the statecraft of key legislators and by following constitutional rules and procedures. A unique path that needs to be explained.

The democratic transitions literature of Latin America has only limited utility in understanding the changes that took place in Peru in 2000. That literature represented by O’Donnell and Schmitter, Karl and Levine, among others, directs our attention to the role of elites, to the role of elite agreements, to the role of the military and to the role of
business. But ultimately that literature does not direct our attention to the role of institutions generally and much less to the specific role of a legislature.

In the face of these deficiencies in the democratic transitions literature, this dissertation turns for guidance to another school of literature, namely the literature on the role of institutions in democracy. Interestingly, it is Huntington who leaves us better prepared for the central role of institutions in democratic politics. He reminds us that without strong and autonomous institutions that respond to the national interest democracy does not stand a chance. This is particularly important for the continent at a point in which democracy is being challenged both by groups who want to increase their quota of power and a population that feels that its expectative of improved life conditions is unfulfilled. Another source of insights to understand the role of institutions in Peru is the US Congressional literature that has studied extensively the role of legislatures in furthering democracy, the potential for statecraft that individual legislators have and how presidential regimes have their own particular ways to solve crises when one of the branches of government suffers a massive democratic deficit.
INTRODUCTION

During the 1990s Peru had gone from a democracy and a democratically elected regime to an increasingly authoritarian delegative presidency under the control of Alberto Fujimori. The breakdown of democracy started in 1992 when Fujimori in coordination with the armed forces organized a self-coup and closed the legislature. A few months later, forced by heavy international pressure, Fujimori announced elections for a Constitutional Assembly. This Assembly was dominated by Fujimori’s followers who designed a new constitution that was approved in 1993 in a very disputed referendum. The new constitution authorized the reelection of the President and increased his power at the same time that it eliminated the Senate and reduced the number of representatives and their faculties.

In 1995 general elections took place and once again Fujimori was able to secure a second term in office and the majority of seats in the legislature. The campaign was characterized by the misuse of state resources to favor the incumbent and smearing campaigns against the opposition. Once Fujimori secured his second term in office the process of democratic breakdown accelerated. The strategy was to secure the control of all branches of government that could exercise any sort of checks and balances on the executive. Accordingly, the judiciary, the legislature, the general prosecutor’s office and even the constitutional court were forced to comply with the mandates of the President. One of the most dramatic examples of Fujimori’s absolute control over the state institutions took place when the legislature passed a law interpreting the constitution as
allow Fujimori to run for a second reelection. When the constitutional court declared the law unconstitutional, the legislature under orders of Fujimori dismissed the members of the court and upheld the interpretative law.

Besides concentrating the power of all the state institutions in his own hands, Fujimori devoted a great amount of energy to build an informal system of government based on corruption. Under the guidance of the advisor Vladimiro Montesinos, the national intelligence services were utilized to intimidate the political opposition, to build a huge network of patronage, to censor and manipulate the media, to control the armed forces and to manipulate the decisions of the judiciary in order to favor the friends of the regime and to intimidate its enemies. This mafia-like organization was also involved in openly criminal activities such as drug trafficking, human rights violations, arms smuggling and it is responsible for many cases of bribery and kickbacks, particularly in the process of acquisitions within the armed forces. It is fair to say that by the end of the 1990s Fujimori had sunk the country to levels of authoritarianism and corruption unseen even during the previous military regimes.

In the face of this gradual but definitive eclipse of democracy, the international community and democratic forces within Peru were at a loss as to how to rid the nation of Fujimori and to return the polity to a regular electoral calendar. Fujimori realized the importance of the international community early in his tenure after the self-coup. To avoid further international reprimands Fujimori chose a gradual approach to his goal of authoritarian control of Peru. His strategy seemed to work. For the most part the international community remained impassive to the denouncements made by the opposition and even praised Fujimori for the pacification of the country and structural
reforms conducted throughout most of his tenure. The relationship changed when the
members of the constitutional court were dismissed for opposing Fujimori’s second
reelection. Among the most forceful critics were governments like the United States and
international institutions such as the Interamerican Press Council and Amnesty
International. A few months before the elections the Organization of American States,
OAS, that had been reluctant to condemn the regime, sent a mission to observe the
general election of 2000. A few days before the election the OAS’s mission announced
that it would leave Peru because the government had not offered enough guarantees for a
clean process. Once Fujimori was declared winner of the 2000 election the United States
and Canada prompted the OAS to reach a continental agreement to impose economic
sanctions to the Fujimori regime for its overt violation of constitutional rules. The North
American proposal was discussed in the OAS and the result was a watered-down mission
sent to Peru, in agreement with the Fujimori administration, to promote talks with the
opposition in a Board of Dialogue and to oversee the gradual redemocratization of the
country. The main practical effect of the mission was to legitimize Fujimori’s third term
in the eyes of the international community.

Like the international community, the domestic forces were also having problems
challenging Fujimori at the beginning of his third term in office. It is important to
remember that the population supported Fujimori in his self-coup of 1992 and that he
maintained very significant levels of popular support almost until the last minute in
response to his efficient management of the economy. However the popular support was
eroded by a combination of economic recession and an increase of the authoritarian
components of the regime. By the late 1990s there was a strong movement that opposed
Fujimori led by traditional party leaders, Lima’s mayor and a number of representatives of the civil society including human right advocates, student leaders and other citizens groups. Although reduced to a couple newspapers and a small cable news channel, the independent media were brave and tireless in their criticism of the regime. The 2000 campaign was marked by huge popular manifestations and rallies against Fujimori throughout the country. By the end of the campaign candidate Alejandro Toledo had become the symbol of democratic resistance and on the eve of Fujimori’s third inauguration organized a large manifestation called the March of the Four Suyos (Sp. Corners) meant to represent the nationwide disgust with the authoritarianism of the regime. Fujimori and his allies met the popular upsurge with violent repression and many people did not protest out of fear. Most importantly, he utilized Montesinos to infiltrate the manifestations with government-paid radicals and to manipulate the media addicted to the government to present the protesters as violent terrorists who did not offer a real alternative of government. The regime succeeded in its attempt to frame the opposition as radicals. The March of the 4 Suyos left several deaths, millions in material losses and a population who seemed to prefer an additional term with Fujimori to chaos, deaths and violence. As I have shown in this brief summary, international pressures and domestic upsurge had been tried without success.

Then, on September 14th 2000, the Peruvian Congress took matters into their own hands. A leader of the opposition presented to the media a video that showed Fujimori’s advisor Montesinos bribing a recently elected congressman to switch his allegiance to the government party. This video confirmed the rumors about the role of Montesinos and the deep level of corruption existing at the center of the regime. This event transformed the
political scenario and opened a window of opportunity for the democratic forces within the legislature to reorganize and to begin a fast-paced process of democratic transition.

In this dissertation I will show how the legislature rapidly rebuilt the Peruvian system of checks and balances. In the aftermath of the video and as result of arduous negotiations among the political forces, the autonomy of the judiciary was secured, the dismissed members of the constitutional court were reinstated and most importantly, the legislature recovered its voice as the only legitimate representative of the population. Likewise, the legislature confronted the corruption of the regime and took measures to prosecute the offenders. At first the inquiries were blocked by the still powerful parliamentary majority of the regime, but in a few weeks the congress had accomplished the unthinkable: important members of the regime were being investigated, and first Montesinos and then Fujimori himself were on the run.

The accomplishments of the Peruvian legislature during the process of transition that ended the Fujimori regime in less than three months are even more impressive when we looked at the crucial issues that were addressed by the legislators. In the first place, the democratic forces in coordination with sectors of the party of government agreed upon a constitutional amendment that shortened the presidential term and allowed the realization of new elections. They also restructured the electoral system in its entirety to guarantee the integrity of the process and to increase the levels of representation of the regions of the interior of the country. These structural reforms were implemented at the same time that the legislators sent clear messages to the top brass of the armed forces to prevent any kind of military intervention and to a group of soldiers who rebelled in the South. Finally, once the democratic forces, including legislators of the opposition and the
government, seized the leadership of congress they proceeded to declare Fujimori unfit to hold the office of the president. Less than three months after the broadcasting of the video Fujimori had fled the country, the Congress had rebuilt the democratic institutions, and Peru was on schedule for new elections. A democratic transition had taken place.

Nothing in the scholarly literature on democratic transition in Latin America or elsewhere would have led us to expect this sequence of events. Although democratic transition is a matter of considerable scholarly inquiry throughout Latin America, no other case presents precisely the scenario found in Peru. In no other context has the popularly elected legislature played such a central and successful role in initiating democratic transition. In no other nation has a legislature spearheaded the initial steps toward democratic transition, drawing upon its own institutional legitimacy to challenge an authoritarian executive and ultimately defeat him.

And yet, at another level, the role played by the Peruvian Congress should not be so unique. After all, in any presidential democracy, which characterizes all those in Latin America, the legislature constitutes a point of independent institutional legitimacy entirely apart from the presidency. The legislature as an institution and individual members within it hold a separate popular electoral mandate upon which to act, including in defense of democracy. Therefore, scholarly attention to the role of a legislature in democratic transitions is appropriate and much needed. Yet much of the literature on democratic transitions and political development has neglected the potential role of the legislature.

In the following chapter I will present the different attempts made by political scientists to explain the development of democratic regimes in authoritarian contexts. The
relevant literature includes some of the most important transitologists, such as O’Donnell, Schmitter, Karl and Przeworsky, who wrote on the eve of democratic transitions taking place in southern Europe in Latin America. Likewise Huntington’s seminal work on developing societies and more recently Ian Shapiro’s criticism of the process of democratization on South Africa provide a brief but at the same time comprehensive, account of the literature relevant to understand the transition that took place in Peru in 2000.
SECTION I
THEORETICAL FRAMEWORK
CHAPTER 2
POLITICAL DEVELOPMENT LITERATURE

Introduction

This chapter is about the literature on transitions from authoritarian rule. In particular, I explore some of the most important works written on the subject of the emergence of democracy with the goal of finding a theoretical framework that will help to understand the events that took place in Peru in 2000.

Put in simple terms, a transition is the process of transformation of an authoritarian regime into a democratic polity where the people freely elect the rulers. The literature of transitions was developed mainly during the 1970s and 1980s accompanying the upsurge of democratic politics in Southern Europe and Latin America. For the most part this literature focuses on elite interaction and on the microprocesses that take place within authoritarian regimes when the pressures for opening and liberalization end up convincing the dictators that their regimes may not last. Sometimes the pressures come from within the authoritarian group in charge, some times from competing elites and other times from the civil society. Likewise, in some countries the whole process may take a few months while in other countries it may take many years. In the majority of cases studied by the transition literature, the authoritarian regime is led by the military, but there are also cases of civilian rulers. This body of literature has continued growing
with the study of transitions in Asia and in Africa and nowadays there is a vast bibliography on the topic.¹

Despite the abundance of books and journal articles that describe transitions taking place in every corner of the world, few of them go beyond particularistic analyses of the events that took place in a specific country and are not very useful to understand a different context. The focus on the political elites and their ability to strike deals with the dictators, or with a moderate faction of the government, tends to highlight individual personalities, groups or organizations rather than to identify patterns applicable to any transition. Precisely for that reason I have selected for the discussion in this chapter only those works that I consider most interesting for their broad spectrum and theoretical aspirations.

The first section will address O’Donnell and Schmitter’s seminal work “Transitions from Authoritarian Rule” that inaugurated the field of transition literature. Despite its focus on the transitions from military rule taking place in Southern Europe and South America during the late 1970s, the book continues providing guidance to those interested in the way negotiations between soft-liners and hard-liners, and between radicals and moderates, increase the chances of democratization. The second section deals with Terry Lynn Karl’s analysis of the role of elite pacts. Even though she uses the case of Venezuela to test her arguments, her main goal is to produce a theory that can be applied to any other country. Likewise Ian Shapiro, a specialist in democratic theory, uses the pacted transition in South Africa to question the long term validity of Karl’s theory of pacts and to warn about the dangers of a regime that lacks a political opposition. Finally,

I will introduce Huntington’s research on developing societies that argues that the main reason for their failure to sustain a democracy is the lack of strong institutions.

**O’Donnell and Schmitter’s Reflections on Transitions**

O’Donnell and Schmitter devoted a substantial amount of time and effort to find some common patterns in the transitions that they were witnessing in places such as Spain, Portugal, Peru and Argentina. Readers of their four-volume collection *Transitions from Authoritarian Rule* agree that these analyses should not be seen as a theory because they do not illustrate a model that explains and predicts transitions. Notwithstanding, O’Donnell and Schmitter’s insights have provided numerous tools to examine transitions taking place all over the world. In this section their main reflections on democratic transitions will be introduced and later on, in the chapters corresponding to the Peruvian case study, they will be utilized to illuminate some aspects of the process.

One of the assumptions of the series prepared by O’Donnell and Schmitter is that there is no transition whose beginning is not the consequence, direct or indirect, of important divisions within the authoritarian regime itself. The authoritarian regime necessarily includes two main types of characters, radicals and moderates, whose positions are in constant conflict. The moderates, or soft liners, will be more open to increase the levels of political participation of the regime while the radicals, or hardliners, will put the emphasis on the repressive aspect of the government. In a similar manner, the opposition can be divided between moderates and radicals, including those who are willing to engage in talks and negotiations with the authoritarian regimes and those who will not accept anything less than complete and unconditional surrender.

From early on their analysis O’Donnell and Schmitter make clear that domestic elites constitute the main actors in democratic transitions. International players are not
that important. In fact they have much more chances to participate in democratic breakdowns than in democratic transitions. It is not rare for political democracies to be brought down by conspiracies involving few actors that are willing to accept the resources of international actors if this increases their chances of success. However, in the case of a democratic transition, even though elites may still play the crucial role, there is an important component of public mobilization and organization of large numbers of citizens that makes international manipulation of the events very difficult to exercise. This point is particularly interesting for the Peruvian case because the initial explanations of the transition utilized conspiratorial arguments with crucial international components.

Once that O’Donnell and Schmitter established the importance of domestic actors vis a vis international influences as the main players of the transition, they devoted a substantial amount of effort to explain the complicated set of incentives and motivations of soft-liners and hard-liners respectively.

Soft-liners and hard-liners, moderates and radicals, do not constitute homogeneous groups. For instance, if we look at the soft-liners in the authoritarian regime we will find great variations in the degree of liberalization they will allow. Some consider that it is time to open up the system, others are indecisive and do not consider it is the right moment even when they agree on the need or convenience of liberalization while others remain cautious waiting to see how things evolve. One of the main problems that the soft liners confront is how to prevent the fusion of the hard-liners with the indecisive that could occur if the hard-liners convince them that liberalization will cause a major damage to the fundamental interests. The possibility of this fusion and the consequent coup d’état

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that would increase the repressive character of the regime represent an actual danger. This constitutes a serious threat to the survival of the soft-liners within the regime. However, at the same time it reinforces their position when dealing with the opposition, pressuring the opposition leaders not to ask too much lest the conversations stall and the hard-liners decide to close the window of opportunity for liberalization.

In order to understand the motivations of the soft-liners O’Donnell and Schmitter pay attention not only to material rewards but also to non-material goals. The soft-liners calculate that if the transition results and a democratic regime is established they will not only be protected from the hard-liners who see them as a danger for the permanence of the regime but also rewarded by “history” for having given their country the possibility to recover constitutional rule. Even though concern for future reputation does not constitute a material incentive in strict sense, it can be as powerful a motive as the desire for immediate satisfaction. Non-material incentives to explain the behavior of political actors must be always taken seriously because as Albert Hirshman noted, “passions, even virtuous ones, can be as important as interests.”

The democratic opposition is not homogeneous either. In general it is moderate in the sense that it is willing to guarantee the respect of the fundamental interests of the armed forces and the economic elites as long as it receives in exchange the control the process of transition. However, O’Donnell and Schmitter discover other types of opposition that tend to appear in democratic transitions and whose behavior may determine the ultimate result of the transition. For instance, there is always an opportunistic opposition, a pseudo opposition always ready to accept any offer made by

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the soft liners. Its goal is to become the dominant voice of the opposition and in reality it becomes an obstacle for the development of real democracy. Likewise, there is a maximalist opposition, unwilling to negotiate under any circumstances and that gives validity to the arguments of the hard-line faction within the government and bolsters their efforts to convince the indecisive of the necessity to end the process of liberalization.

If the maximalist opposition takes control of the transition, the consequences may be serious. The risk of a counter attack increases because this opposition does not guarantee the fundamental interests of the armed forces and of the economic elite. O’Donnell and Schmitter argued that in countries where the prestige of the authoritarian regime was very deteriorated the maximalist opposition had strong chances of succeeding. The short-term result would be a dramatic increase of popular participation that would not necessarily produce a political democracy. The main goal of the maximalist is to transform all the economic and social structures associated with the old regime in order to replace it with a new one. O’Donnell and Schmitter considered that maximalist groups did not value democracy.

With the process of liberalization a complex game starts where old allies confront each other and there is the possibility of different combinations of alliances between sectors of the opposition and the government. O’Donnell’s argument is that the kind of transition and its success depend on the opposition and its conflictive coalitions with the soft liners.

The process described by O’Donnell and Schmitter is not lineal. Often times there are false starts, interruptions and even regressions. The first task of the opposition is to assume the leadership of the process. Even though the final goal is to arrive to political
democracy, at the beginning is not clear how this will be accomplished. In the cases presented by the authors the opposition gradually obtains more and more concessions from the regime, including issues that were not part of the initial negotiations. The game is complex for the opposition. From an initial position of limited power, it must constantly reevaluate the changing circumstances trying to identify the moments in which it can exercise pressure and obtain concessions from the soft-liners. It also has to recognize the times in which it has to flatter them and offer reassurances in order to maintain the transition. Regarding this last point, the opposition must offer in exchange unequivocal guarantees that it will not affect the fundamental interests.

The definition of fundamental interests varies in each country and its content will depend on the particular characteristics of each transition. The dynamic redefinition of the content of the interests is one of the central themes of the transition. At the beginning these interests are defined in a very broad manner as elements that guarantee the autonomy of the armed forces and do not threaten the survival of the economic elites. Later, as a result of the interactions among forces resulting from the transition, those interests tend to be redefined by the actors in a more limited manner, reaching positions that would have been rejected at the beginning of the transition. However, the capacity of adaptation and elasticity of the definition of the fundamental interests are not endless and unless the opposition is willing to risk the success of the transition, minimum guarantees will be offered to the armed forces and the bourgeoisie.

In the case of the negotiations with the bourgeoisie, the opposition needs to reassure it that its property rights will not be jeopardized in the foreseeable future. In other words the bourgeoisie will not accept any change of regime that threatens their
position of vanguard in the economy of the country. Any plans that include policies such as expropriation of private property, land reform and nationalization of private corporations will be met with disapproval by the economic elites. Other aspects such as substantial redistributive reforms or increasing the power of the unions do not seem to constitute major impediments to obtain the approval of the bourgeoisie.

In the case of the armed forces the experience of previous transitions indicates that their nonnegotiable limits are any measures that threaten its institutional existence, its assets and the general rules of discipline and hierarchy, particularly those that separate officials from the ranks and file.

The reassurances to the wealthy and to the armed forces in certain cases may be institutionalized in a formal pact that establishes the characteristics of the future regime. O’Donnell and Schmitter do not regard pacts as necessary elements in all transitions. In some cases the regime is too discredited to impose any conditions and in others its power remains intact and they can impose conditions. However, they add that “where they are a feature of the transition they are desirable, that is, they enhance the probability that the process will lead to a viable political democracy.” Even though the issue of pacts will be discussed more extensively in the following pages it is important to point out that O’Donnell and Schmitter recognize their main paradox: they move a polity toward democracy by utilizing undemocratic means. Pacts are negotiated by few participants representing established groups and exclude the majority of the population. Likewise, they limit accountability, generate a policy agenda that responds only to those who participate in the negotiations and distort the principle of citizen equality.
Given the complexity of the process of transition and the central role of the political elites, the exigencies of political leadership are very elevated particularly when the threat of repression and authoritarian regression is ever present. In their negotiations with the regime the leaders of the opposition must be firm but at the same time willing to compromise in certain aspects essential for the extrication of the members of the old regime. Likewise, opposition leaders must appeal and convince their followers that strategy and flexibility are part of the process and that the final destination will be democratization. If the opposition loses the support of the population, its claims of representation and its legitimacy to deal with the regime are seriously affected.

In accordance with their elite-centered view of the transitions, O’Donnell and Schmittner recognize limited importance to popular manifestation. For them popular upsurge only lasts a few days. Selective repression, manipulation and cooptation by those still in control of the state apparatus, the fatigue induced by frequent demonstrations, internal conflicts over choices about procedures and substantive politics and the sense of disillusionment with pact-making are factors leading toward the dissolution of the upsurge. Notwithstanding the lack of consistency of popular mobilization, it does play a crucial role in pushing the transition further than it would otherwise go. General strikes and massive mobilization provide momentum and help convince those in the government of the urgency of maintaining the process lest that a social explosion transforms dramatically the status quo. The negative side of popular manifestations is that they raise expectations that will not be met in the process of democratic transition and the disenchantment they leave behind is a persistent problem for the ensuing consolidation of political democracy.
The work of O’Donnell and Schmitter concludes with a series of tentative reflections on the nature of transitions. The main characteristic of the process is the high degree of indeterminacy which surrounds those who participate in a transition. Actors on both sides of the process cannot predict the implications of their short term interactions or their long term consequences. The possible combinations are infinite and partial triumphs and defeats frequently happen in ways unexpected by the actors. Thus, the main objective of the transition is to invent a set of rules that contributes to reduce the levels of uncertainty. The rules may be presented in the form of a constitution written by a constitutional assembly or as informal arrangements that provide a road map that will facilitate the realization of elections and the instauration of a democratic regime.

*Transitions from Authoritarian Rule* was the result of the effort of a number of intelligent scholars led by O’Donnell and Schmitter talking about democratic transitions in South America and Europe. They found some common traits in the different processes that took place in the 1970s. That is the first step toward developing a general theory but they never came up with one. Another, more serious, limitation is that the whole series was written and published without ever considering the institutional framework of the countries under study. The judiciary, the legislature, whether the country is a federal system or not, among others, were topics that for the most part remained untouched by the authors. It is a whole book that could have written then that they did not write. In the following chapters, with the help of the Peruvian experience, it will be shown how the influence of institutions, particularly the legislature, should be always taken into consideration when analyzing a transition. Not withstanding the limitations of the
O’Donnell and Schmitter collection, a number of their insights will be useful in our analysis of the Peruvian transition in 2000.

As the reader can see, O'Donnell and Schmitter have given considerable thoughtful attention to democratic transitions and to the processes that may accompany such transitions in many different times and places. Yet nowhere in their consideration of democratic transitions do they consider that an institutionally-led transition spearheaded by a legislature could take place. Furthermore, observers who look only at the executive also inadvertently contribute to undermining democracy in Latin America by this obsessive focus on the president. Informed by the work of O'Donnell and Schmitter, Peru's democratic transition takes us entirely by surprise.

There are elements of O'Donnell and Schmitter's study that have relevance to the Peruvian transition context. These have to do with divisions within the authoritarian regime. There were clear divisions within the government party Peru 2000. There were two main factions, Cambio 90 and Vamos Vecino, and O'Donnell and Schmitter’s insights about soft-liners and hard-liners help to illuminate the behavior of these factions throughout the transition. However, the most important division that existed is that the Congress was becoming increasingly impatient with the authoritarian behavior of the executive; and this is a cleavage that O’Donnell and Schmitter did not discuss or even recognize as relevant.

This cleavage between the executive and the legislature could be overlooked by observers not paying enough attention to institutions, for them, the congressmen of P2000 appeared as mere extensions of the executive branch. In fact there were clear differences between the executive and the legislature in terms of institutional dynamic. In the
executive, Fujimori and his closest advisors centralized all the powers and took decisions autonomously. Behind-closed-door dealings, rumors and conspiracies were part of the normal conduct of business of the executive during the Fujimori regime. However in the legislature, the members of Peru 2000 had to face the opposition of the other parties every day and where subject to strict terms and rules of procedure. Furthermore, the levels of accountability were considerably higher. Floor and committee sessions were open to the public and the media. Legislators in Peru, as in any other nation, seek the contact to the press in order to get coverage and to increase their standing among the population. Finally, despite having the majority of votes in parliament, in order to keep the legislature running, the legislators of Peru 2000 had to concert with the opposition and this generated an institutional dynamic more compatible with negotiation and consensus building than it ever existed in the executive. By the time of Fujimori’s third inauguration the contradictions between the institutional dynamics of executive and legislature had reached an untenable position. The video showing a congressman being bribed by Fujimori’s main advisor was the spark that set the transition in motion.

In pointing our attention toward divisions within an authoritarian regime, O’Donnell and Schmitter are helpful at the most general level. Yet they begin the task without completing it. They point us toward considering divisions without themselves realizing that those divisions can be institutional, and can exist between the executive and legislature themselves. This is what happened in Peru. A legislature that for almost a decade behaved in a submissive manner with respect to the executive but that at the same time conferred legitimacy on the regime in the eyes of the population and the international community contained the seeds for a democratic transition. The institutional
particularities of the legislature such as its representative character, the adherence to
norms and procedures, the transparency of its sessions and the permanent presence of the
political opposition presented a stark contrast with the growing authoritarianism and
corruption of the executive. Thus O’Donnell and Schmitter have set us on the right track
but additional study is in order with respect to how that division can play itself out
between institutions and how that division can allow a legislature to spearhead
democracy.

**Karl and the Importance of Pacts**

Another school of literature on democratic transitions points our attention to the
role of elite pacts in democratic transitions. On the one hand, the work of Terry Karl
presents a positive view of elite pacts and of pacted transitions more generally. Pacts,
suggests Karl, are one way to achieve democratic transition. In response to Karl, Shapiro,
guided by the South African case, presents a much more cautious and skeptical view of
the democratic potential of transitions.

In the previous section we revisited one of the most influential works of the
literature of transitions. The main concern of its authors was to identify certain patterns
that were present in a number of transitions from authoritarian rule taking place in Latin
America and Southern Europe. As we mentioned before, the authors were not trying to
create a model or a theory of transition that would explain their nature or to establish a
series of necessary conditions for democratic transformations.

Even though O’Donnell and Schmitter did make reference to pacts among elites
and saw them as favorable, they also pointed out some of the dangers associated with this
type of arrangement. Reticence to accept pacts as the best possible option was also
manifested by others who argued that it is better to have a non-negotiated transition in
which the new government has fewer non-democratic elements because fewer, if any, promises have to be made to the authoritarian regime to get it to exit, allowing the new democracy more leeway to introduce reform.

Most of the early criticisms of pacts were silenced by Terry Lynn Karl’s theory based on the case of Venezuela that demonstrated that pacted transitions were more likely to lead to the successful installation of democracy because they were more likely to convince the authoritarian regime to exit by offering guarantees. It is important to indicate that the discussion of pacts corresponds to a more advanced aspect of the literature of transitions. If O’Donnell and Schmitter were concerned basically with the initial transition from authoritarian rule, authors like Karl, were thinking more in terms of the consolidation of democracy. In an a similar fashion, Casper and Taylor⁴ found that a country’s experience during the final stages of the authoritarian regime in terms of inter-elite negotiations affects its chances of consolidating a democracy. Their own analysis shows that countries that adopt intense negotiations during the transition are the most likely to make progress toward consolidation. For the purposes of this dissertation it is important to present Karl’s theory of negotiated pacted democracies and see if it is applicable to our case study

Karl developed her theory in different documents and utilized the experiences of countries such as Colombia, El Salvador and Venezuela to support her points. However to understand the essence of her argument it is necessary to refer in some detail to her article Petroleum and Political Pacts published in 1990. In that article, the Venezuelan experience, at the time considered a clear example of democratic success, was utilized to

argue that “democratic transitions are best understood by systematically relating socioeconomic and political structures at both national and international levels, to purposive political action.” In this piece Karl evaluates the role that different variables play in contributing to a successful democratic outcome. She takes into consideration economic factors such as the dependence of Venezuela on oil and the effects of oil in the transformation of the social structure of the country as well as its international implications. Likewise, from a more political perspective she tries to explain the institutionalization of the Venezuelan party system using variables such as statecraft, collective organization, choice and mere fortune.

Karl is not the first scholar to make references to pacts in Venezuela. In fact her work builds upon the studies of Levine who defined the character of Venezuelan democracy by explicit agreements forged among elites during the 1957-58 period that established the future rules for governance. According to Levine, the negotiations among the elites in Venezuela, institutionalized in the Punto Fijo pact, permitted key actors the development of sets of rules to resolve disputes and to regulate partisan competition. In a fashion similar to O’Donnell and Schmitter’s, Levine’s view of pacts is based on human agency. They are largely the result of choices made by astute politicians with long-term view of the process.5

Karl recognizes the importance of pacts and develops a much more complex analysis of the conditions that favor their realization but at the same time adds a structural variable that was missing in the previous analyses. Petroleum according to her, is the

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single most important issue shaping the transition to democracy in Venezuela. The particular characteristics of development associated to an economy based on petroleum exports impacted the way in which actors such as peasants, landlords, urban dwellers, workers and capitalists organized their political capabilities. Even though petroleum-led development by itself cannot explain authoritarian breakdown, statecraft and pacts come into place only after the context for democratic change has been set in place by the structural transformations produced by oil.

Karl’s introduction of economic variables in the attempt to provide a more complete explanation for political change belongs to the tradition of scholars initiated by Barrington Moore who sees the development of democracy as facilitated by broad disposition of economic resources and who considers “the elimination of the peasant question through the transformation of the peasantry into some other kind of social formation” a requisite indispensable for the development of a democratic regime. Oil induced development in Venezuela affected the specific weight of land-based economy by creating an autonomous class of urban dwellers devoted to industrial tasks, the provision of services and a big state sector, whose livelihood does not depend from the land. Only once the structural transformations had taken place the political negotiation took center stage.

Another way in which petroleum contributed to the success of the democratic transition in Venezuela was that “petrodollars served as lubricant to smooth social conflict” during the process. Pacts were facilitated by the capacity of the state to grant massive favors, contracts, and infrastructure to the capitalist class while at the same time

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charging the lowest taxes on the continent and maintaining the highest wages, food 
subsidies and price controls in Latin America, maintaining a significant sector of the 
population in a situation of relative affluence.

The main benefit of pacts is that they reduce the levels of unpredictability and 
uncertainty and reassure the elites that their main interests will not be threatened. 
However, they also present a negative aspect that may have serious consequences in the 
stage of democratic consolidation. Pacted democracies are usually conservative and tend 
to “freeze” the political system in a context in which important social and economic 
reforms are necessary to increase the population’s level of satisfaction with the new 
democratic regime.

In the case of Venezuela, once the necessary structural transformation had taken 
place as a result of the petroleum-led mode of development, the elites agreed on a series 
of crucial pacts. The pacts included negotiations with the catholic church, pacts with the 
armed forces and pacts with different sectors of the economic elite. These pacts were 
formalized in the *Punto Fijo* pact, and in the 1962 Constitution, signed by the different 
political forces that agreed upon a power-sharing mechanism on the basis of electoral 
results. The different political forces also agreed to an equitable distribution of the 
resources of the state.

Even though concrete institutional aspects, such as the division of power among the 
different state branches, are not given much importance in Karl’s analysis, the 
Venezuelan pacts did include important institutional clauses. For instance, the President 
became the supreme national arbiter. The logic was that by providing this office with 
high levels of autonomy the president would be above partisan politics and would be able
to act as a mediator. Following the same logic of reducing partisan conflict, the powers of congress were carefully circumscribed. Weak congressional committees with few resources were not capable to compete with the executive in the initiation of laws or in adequately revising those sent by the Executive. The objective was to limit “free ranging” competition between parties and instead provide a forum in which the proposals advanced by the President would be discussed and presented to the population, thus obtaining the seal of legitimacy conferred by the legislature. The Venezuelan congress was designed to allow political parties a forum for political discussion and debate but no actual participation in policy making. In fact the most important matters affecting public policy and concerning the traditional functions of the democratic legislatures of the world were beyond the reach of congress.

Another crucial component of the Venezuelan pacts was a new economic project denominated the *Programa Minimo de Gobierno*. This program was a model of development based on promoting foreign and domestic corporations, providing subsidies to the private sector, protecting the local industry with tariffs, forbidding nationalization of private property including oil companies and limiting land reform. Put together, the *Punto Fijo* power-sharing pact and the *Programa Minimo de Gobierno* represented a typical exchange between the right to rule for the right to make money. The *Accion Democratica* party was granted the right to rule and the economic elites were guaranteed the permanence of the status quo.

Other important aspects of the Venezuelan transition mentioned by Karl point out to the favorable international environment and the political skills of *Accion Democratica* leader Betancourt. With respect to the former, the fact that the United States manifested
its support for the democratic experiment and its willingness to intervene directly in case of a revolution encouraged all the participants to arrived to a negotiated solution. With regard to Betancourt’s role, he opted for showing restrain in his demands from the elite and curbed the influence of his own Accion Democratica party, strengthening the other parties up to the point that they could potentially win elections.

Karl was aware of the problems associated with pacted democracies, particularly the fact that they tend to prevent social reforms. Furthermore, in the case of Venezuela, the use of the state as a spoils system to create and to maintain power-sharing mechanisms among the main parties could have a negative impact on the future efficacy of the state. However, for Karl, none of these problems appeared to put in risk the process of democratic consolidation and economic growth of Venezuela. Optimistically, Karl predicted that as a result of the success of the system the country may enter a period of accelerated industrialization that would transform once again the social structures and thus erode the foundation of the original pacts. If this were the case “the decades of democracia pactada provide a sort of cement for the regime to counteract possible erosion” concluded Karl.

As we could see, Terry Lynn Karl does have a theory and develops her analysis including important structural variables that where not part of the O’Donnell and Schmiter series. However, Karl says that the way a democracy is made is that the elites get together and decide that they are going to talk only about certain issues and that they will not talk about other issues. They decide not to talk about economic democracy, or minimum wage, or land reform but instead they agree to talk about things that are politically safe. She says that the Venezuelan experience shows that this is the way in
which you make a democracy work. In recent years additional investigation and the failure of Venezuela to protect its democracy from the authoritarian impulses of president Hugo Chavez have forced scholars to take a more critical approach to Karl’s theory. The next section deals with one of the most forceful arguments.

**Shapiro and the Danger of Pacted Transitions**

Karl’s exhaustive analysis of the Venezuelan case and her clear bias in favor of negotiated transition have been criticized by different scholars. Ian Shapiro is a political theorist from South Africa, who without mentioning her work makes an interesting case against Karl’ pacted transitions. Shapiro’s analysis and consequent skepticism about pacts draws on his experiences of the transformations taking place in South Africa after the fall of the apartheid regime.\(^7\)

The South African transition often has been considered a textbook case of well crafted transition. By obtaining the cooperation of the main political actors, it was possible to avoid a civil war or a military coup. The general consensus among observers is that democracy in South Africa was created in the only way that guarantees its consolidation: via negotiations, agreements and compromises.\(^8\)


Shapiro disagrees with this analysis and challenges the notion that pacts are the best way to facilitate democratic politics in the medium term. The main obstacle that he perceives in the South African case is the lack of a political opposition. By designing a system that gives every powerful player a stake in government the South African transition has eliminated one of the essential institutions of democracy. Democracies need the existence of powerful actors that play the role of a loyal opposition by criticizing the government’s policies and offering alternative solutions. Shapiro contends that the lack of an opposition is the consequence of the decisions of the main actors of the bargaining process. The negotiations between the government reformers led by President De Clerk and the moderate leadership of Mandela’s African National Congress party produced a set of agreements institutionalized in the interim constitution. Shapiro argues that the rules developed in that document may have been the best possible to end apartheid peacefully but they cannot be replicated in the permanent constitution because they will prevent the consolidation of democracy.

Shapiro presents three related reasons why democracies cannot survive without a functional political opposition:

1) The first reason has to do with the operation of democratic politics. At minimum a democracy must allow the peaceful alternation of elites in power. The turnover takes place when the ruling elite is defeated in an electoral contest by a counter elite. In order to articulate a campaign, the opposition needs an institutional space where it can organize, obtain information and reach out to the population to obtain votes. Likewise

counter elites need safeguards such as freedoms of speech and of association so that they can function autonomously and present an actual challenge to the group in power. The absence of an opposition with these characteristics decreases the chances of elite turnover. Thus, when there is a crisis in the government the population tends to perceive it not as a failure of the group in power but instead as a problem associated with the democratic regime.

2) Securing the legitimacy of the democratic order is another reason why a political opposition is essential. By having a clear differentiation between the group conducting the affairs of government and the groups presenting alternative programs, dissatisfied populations are able to differentiate the party in power from the democratic regime. The natural course of action in a democracy in crisis is to replace the ruling group via elections. As it was mentioned above, the lack of institutional channels to manifest dissent endangers the general stability of the regime in times of crisis.

3) The third reason for the existence of a political opposition is a function of public interest. It is a fact that the presence of an alternative discourse of government articulated by a well-informed opposition forces the government to maintain high levels of accountability. Likewise an effective political opposition will pressure the government to act with transparency and providing reasonable explanations for all policy decisions. On the contrary, if the opposition is weak or inexistent, government officials will succumb to the temptation of governing in secret. The oppositions plays an important public function by letting elected official know that their actions are being observed and that they will be held accountable for them.
Despite all these virtues, in many transitions political actors establish sets of rules targeted to channel dissent and opposition away from national political institutions and otherwise to diffuse it. The logic behind discouraging the existence of a loyal opposition supposedly is to avoid the danger of a civil war in societies that are potentially explosive. Among the designs to avoid conflict by suppressing competition, the best know is Lijphart’s consociational democracy inspired in the small democracies of Western Europe\(^9\). This type of design assumes that in certain polities the social cleavages are so intense that given the opportunity for free ranging competition, rival groups, usually organized around ethnic identities, will make democracy unviable.

Shapiro argues that minimizing political competition to such degree undermines the three functions that the opposition is supposed to play in any functional democracy and threatens the regime’s capacity to survive in the medium term. In terms of the operative function of the opposition, because the system allows the entrenchment of all the elites in the government the population does not have the possibility of “tossing the rascals out” and replacing them with a counter elite. With regards to the legitimating function, seeing all the elites in power the population cannot differentiate between the individuals or parties causing the crises and the democratic regime that maintains them in power. The dissatisfaction will most likely be expressed in terms of support for extra institutional alternatives. Finally, with regard to the public interest function of keeping the government under constant surveillance, in consociational regimes powerful members of parliament do not want to endanger their chances of becoming part of the cabinet by

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criticizing the government. Thus, the nature of consociational arrangements is to increase representation of participation at the cost of practically eliminating opposition politics.

The South African transition of 1994 provides an excellent case study of the development of a regime without effective political opposition and the implications of this absence for democratic consolidation.

In South Africa the National Party (NP) that held power before the transition insisted on a consociational arrangement throughout the negotiations and eventually it prevailed. The leaders of the main opposition party, the African National Congress (ANC) felt so confident about their grass roots appeal and their chances of presiding the new regime that made concession after concession to the NP, eventually accepting what they have rejected at the beginning: a power sharing agreement. The result of the negotiations between the NP and the ANC was a government of national unity in which every relevant actor shares the responsibility of governing the country and is entitled to seats in the cabinet.

The institutions created by the interim constitution do not contemplate the need for opposition politics. Accordingly, the main function of the parliament is to cement a powerful consensus that will provide the executive with the main political guidelines. Like in the Venezuelan case discussed by Karl, powerful parliamentary players will prefer to support the government in exchange for the benefits they will receive from the spoils system. Since South Africa is a parliamentary regime, members of parliament know that opposing the government would mean giving up the influence, perks and patronage that participation in the government entails. With regards to the office of the president, unlike the Venezuelan case, it is a weak institution and depends on the
authorization of the cabinet for most important decisions. This type of institutional design responds to the fact that the principal actors of the negotiations expected to be the power holders of the new regime. By securing a system without enemies during the transition the NP and the ANC avoided the disturbing presence of radical groups that opposed the transition itself. Some of these radical groups wanted the continuation of the apartheid regime while others wanted a new regime led by the ANC and with no participation of the minority NP. The negative effect of the design was that when they blocked the radical groups, the negotiators also prevented the development of a democratic opposition that is essential for the consolidation of democracy.

A particularly interesting aspect of Shapiro’s argument that goes against commonly held ideas about South Africa is that ethnic cleavages were not determinant in the design of the institutional framework of the transition. By utilizing electoral data he demonstrates that a substantial percentage of whites supported the ANC and that a significant segment of colored and blacks voted for the NP. In the same manner he undermines arguments that point to sharp regional differences that made indispensable the existence of a consociational agreement. The real explanation, Shapiro says, is provided by political calculations and the manner in which the distribution of power among relevant actors evolved during the transition.

Seen under this new light, the power sharing agreement does not have an structural justification but instead it is simply an elite pact that is not really democratic. Even though it has been presented as the best strategy to maintain stability during a period of changing conditions, it is questionable that it will sustain democracy in the future or if it will end up being perceived by the population as a conspiracy among power craving
politics where the electorate is the big loser. Besides, by excluding the participation of the majority of the population - the civil society - this regime resigns to the support that citizens give democracy during times of crisis. Recent studies have shown that ordinary people in the vast majority of cases do not support radical options, particularly when their opinion is expressed in elections and in polls. Likewise they rarely, if ever, play a role in the breakdown of democracies. The recent experience of Venezuela where the traditional political class was “tossed out” of government via elections and replaced by a populist leader without many democratic credentials indicates that Shapiro’s warnings should not be taken lightly. Successful democratization is possible “only if, and only to the extent that, a civil society or something like it, either predates the transition or becomes established in the course of it”.10

Uncertainty about the future and lack of predictability were considered by O’Donnell and Schmitter troublesome for transitions. Negotiated transitions help to reduce unpredictability about the immediate future and sometimes are the only way to convince an authoritarian regime to leave power. However, once the new regime is in place a different kind of uncertainty must be introduced in the institutional framework. Uncertainty about which group will be in power the next time elections come around gives people hope in the system. People are more likely to support democracy in times of crisis when they believe that there is a viable option that could replace the government and make things right. This recharge elite is the opposition and “tedious as meaningful opposition might often be to deal with, it gives rise to the complex competition that is the lifeblood of democratic politics.”

Despite Shapiro’s convincing analysis of the negative consequences of a pact that precludes the existence of a political opposition, the “pact” literature constitutes an advance from the initial reflections of the early transitologists. Karl’s analysis expanded the number of variables that should be considered in the study of transitions from authoritarian rule. She emphasized economic and structural variables such as the role of oil and the changing social structure of developing countries. Furthermore, unlike her predecessors, Karl paid attention to institutions particularly to the relationship between the president and the legislature in the new regime. Without any doubt, Karl’s theory is the most institutionally oriented one in the literature Latin American transitions.

The consideration of the role of pacts in the Peruvian transition is important because just as in the cases of Venezuela and South Africa, it was necessary to offer guarantees to the authoritarian regime to facilitate its exit. Likewise it was necessary to assure the economic elite and the armed forces that their fundamental interests would not be threatened by the new regime. As I will show in the following chapters of this dissertation there were several instances in which pacts among elites were attempted. A case in point would be the negotiations within the legislature between the parties of the opposition and factions of Fujimori’s Peru 2000 party in order to elect a new Speaker. These negotiations were conducted sometimes in secret and included reassurances for the members of the old regime such as exemptions from future prosecution. Another instance in which pacts were attempted was at the OAS’s Board of Dialogue where a dozen legislators plus a few representatives of the executive and civil society agreed on issues such as the electoral system to utilize in the coming elections.
Notwithstanding the existence of these elite-level agreements during the Peruvian transition, their characteristics are more similar to normal parliamentary negotiations than to the particular species of agreement described by Karl. In Peru, the main participants in the agreements were legitimately elected representatives of the population and the negotiations for the most part were conducted under public scrutiny. The Board of Dialogue sponsored by the international community and the legislature made a point out of acting with transparency to offer guarantees to the population that there was a departure with respect to the way Fujimori conducted the government.

The main critique I have of the pacting argument is again a criticism of a lack of attention to institutions and a lack of understanding that where institutions have even a modest level of strength and legitimacy then they already provide a forum for negotiating and for constructing agreements among key actors. In short, the kind of ad-hoc pacting that Karl describes and Shapiro rejects is not necessary, and becomes much less necessary where there is a legislature. Negotiation, compromise, dialogue and agreement are the job of the congress and its reason for existing. Where it exists, pacting and negotiation are already part of the polity and specific temporary pacting among key actors is not needed to transition the nation to democracy. Both Karl and Shapiro fail to see the advantage Peru had because of their inattention to the potential role of institutions.

Moreover, the critique that Shapiro makes is likewise less patent where there is a legislature. A congress, by definition, provides a place for the opposition and a forum for it to express its views. Thus, where there is a congress and negotiated agreements emerge from that kind of institutional setting then the opposition has already been incorporated
and democracy and the democratic transition are further along than they would be under
ad-hoc pacts Karl advocates. Agreement among actors was easier and more
enforceable given the institutional legitimacy they gained by emerging from congress.

With regard to specific pacts with the economic elites and the armed forces, the
existence of a legislature whose decisions were made according to a constitution rendered
them unnecessary. Issues such as the role of the state in the economy, the inviolability of
private property and the economic reforms that favored free market policies were already
recognized in the 1993 constitution. Likewise, the internal autonomy of the armed forces
based on the rule of law and its subordination to civilian authorities were also
institutionalized in the constitution. These are the advantages Peru already had.

Although negotiations were at the center of the Peruvian transition, the fact that the
legislature became the institution were all pacts were made constitutes a big departure
from Karl’s theory. Furthermore, not only the way in which the negotiations were
conducted was open and inclusive, but also the results of the negotiations differed
considerably. In Peru, unlike in Venezuela and South Africa, there was neither power-
sharing agreement nor a conscious effort to eliminate the existence of political
opposition. In Peru the negotiations were made knowing that in the following months an
electoral process would be implemented and none of the actors knew who would be the
winner of that contest. Thus, the negotiations produced by this legislature reestablished a
set of democratic rules that guaranteed fair play, encouraged the existence of a
democratic opposition and reinserted electoral uncertainty at the center of the Peruvian
system. All of them elements that tend to foster democratic consolidation.
And yet, here again, the literature fails to address fully the potential role of a legislature. Relying upon the literature on pacts, we are again left surprised by what happened in Peru.

**Huntington and the Importance of Institutions**

As this overview of the literature on democratic transition and development illustrates thus far, the literature on democratic transitions leaves us unprepared for the kind of transition that took place in Peru. In fact, the literature that makes the most important contribution for understanding Peru's transition is not the transitions literature at all or even the literature on Latin America. The literature that most fully provides a framework for understanding Peru's transition is Samuel Huntington's work on political institutions.\(^\text{11}\) Among scholars Huntington has distinguished himself as a voice for directing our attention toward the essential role of institutions in contributing to political function and successful democracies.

Even though Huntington is not usually associated with those scholars that are concerned with democratic consolidation I have chosen him for the last section of this literature review because he is an institutionalist at heart. Huntington is convinced that only in polities that have strong institutions is democracy safe. The other authors included in this chapter, particularly O’Donnell and Schmitter and Karl give only marginal attention to institutional aspects such as regime type, electoral systems, legislatures and political parties, that I consider essential to explain the success of any type of transition.

Huntington wrote about institutions in a historical context when many countries in the world were experimenting considerable changes. The nature of these changes that included the destruction of traditional structures of power, the introduction of technological advances, the introduction of capitalism and the market in traditional societies, ideological struggles motivated by the Cold War and the expansion of education, among others, was simplified by using the term modernization. The term was useful to indicate a departure from a more traditional stage characterized by personal rule. Huntington perceived that one of the consequences of this transformation was instability and chaos and he devoted his efforts to understand this problem and to advance a solution.

The origin of the problem was that modernization in developing countries generated new social forces that could not be channeled through the traditional means of ruling. One of Huntington’s central theorems is that it is not the absence of modernity but the efforts to achieve it, which produce political disorder. The appropriate response to change should be to develop new institutions, more complex and authoritative, capable to restrain the destabilizing forces. Unfortunately in most countries the modernization of the society was not accompanied by the increase of sophistication of their institutions. As a result these polities contained a combination of strong social forces and weak political institutions characterized by fragile and disorganized legislatures, unaccountable executives, corrupt public authorities and political parties that lack mass appeal. The institutions of traditional societies usually reflect only the interests of the leader.

Modern societies in the West are successful because they have accomplished a process of political institutionalization characterized by the existence of institutions that
are not simply expressions of the interests of particular social groups. In this societies the state is authentically autonomous and represents the common interest of all citizens. This constitutes a departure from Marx’s definition of the state as “the executive committee of the bourgeoisie.” If that is the case, according to Huntington, that state is not institutionalized and it is best defined as corrupt.

The presence of institutions provides the society with a set of rules and procedures to define and to realize its common interests, a place to go when politics gets into trouble and tensions become too extreme. Individual interests are necessarily short term interests and are not predictable. On the contrary institutions allow the existence of common interests that are long term and if not completely predictable at least they are regular and provide a limited range of options. This happens because when institutions are designed their proponents want them to persist indefinitely.

Huntington highlights an issue that has been traditionally understudied by political scientists. The real explanation for the failure of a society to prevent its political decomposition (or democratic breakdown) is directly related to its incapacity to develop political institutions capable to articulate the different social forces released during the process of modernization. The big difference between traditional institutions and modern institutions is that the former are able to structure the participation of a small segment of the population while the later are designed to articulate the participation of the mass of the population. For a democracy to be safe, or in Huntington terms, stable, its institutions must be strong and capable to adapt to changing conditions.

Because of the massive character of modern polities, the defining institution of a modern polity is the political party. Modern political parties appear in modern societies
because only when countries have reached a certain level of development they require institutions to organize mass participation in politics.

When we are confronted with a traditional society that is in the first stages of modernization it is possible to predict their future stability by looking at the political institutions that it will utilize to deal with the expansion of political participation. Thus, countries that are able to develop a reasonably well organized party system early in the process of popular participation have better chances to include the mass of the population without destabilizing crises than countries where parties are organized when all social forces are already trying to make feel their influence in a rather anomic manner. Huntington warns that participation without organization degenerates into mass movements and that organization lacking participation degenerates into personalist cliques. None of these alternatives contributes to stability and order. Given his personal preferences for stability and order it is not surprising that Huntington admired the relative success of communist states in providing political order. He believed that communist parties were successful because they gave priority to the conscious act of political organization. Arguably, the success of communist parties was more a reflection of their repressive capabilities than of their organizational skills, but at least for a while, these systems demonstrated their efficiency to improve the material welfare of their citizens and were indeed stable.

Huntington is not a student of Latin American politics and in reality he is more worried about order and stability than with meaningful democracy. However, he is an institutionalist who is convinced that if a country does not have institutions it is going to maintain a personalist rule and erratic policy that responds to an individual’s personality.
The only way to stabilize a polity is by having institutions. This constitutes a powerful argument to consider in the next generation of analysis of transitions. In the beginning of the twenty-first century would not be appropriate to limit the evaluations of these processes simply to the fact that they are able to replace an authoritarian leader for a legitimately elected one. Instead it is necessary to contemplate long term issues related to the chances of democratic consolidation. Despite his lack of authentically democratic grounding, Huntington constitutes a powerful reminder for the need of institutions.

Huntington's work is important for the Peruvian story for several important reasons concerning the role of the legislature throughout the transition. According to him institutions provide societies with a set of rules and procedures to define and to realize the common interests of their members. They also promote long-term goals within a limited range of options. Another characteristic is that they are autonomous in the sense that they represent the whole nation and not only a particular social group. If a particular institution has all these characteristics it will became a stabilizing factor that will promote the continuity of democratic institutions. According to Huntington this is what happens in the consolidated democracies.

The Peruvian legislature had many of these characteristics at the time of Fujimori’s third inauguration in 2000. In fact Peru has a long tradition of congressional autonomy and power. Since the beginning of the republic, the legislature has had enough power to act autonomously and to exercise an effective check on the Executive. In Peru’s recent past there were several opportunities in which congressional refusal to acquiesce to the Executive’s orders was the direct cause of regime change, i.e. the first Belaunde administration in 1968 and Bustamente’s in the 1950s. Traditionally, this meant that the
military intervened and demolished the whole institutional setting. However in 2000 the legislature not only exercised its muscle to stop the Executive but also utilized its bargaining mechanisms and its rule-oriented behavior to produce a bridge to a new more democratic regime.

The reason why legislatures have been blatantly ignored by Latin Americanists is that most of the time, particularly when the same political group controls the legislature and the presidency, the legislature has behaved in a subservient manner. The logic behind this behavior was that legislators understood that the mandate of the electorate was to support the policies advanced by the president. Elements of the electoral system such as the simultaneous election of president and members of the legislature and the lack of mid term elections tended to reinforce that logic. Until very recently, this institutional behavior favored the notion among those studying the politics of Latin America that the legislatures do not constitute an important actor independent from the all-powerful president. Huntington’s emphasis on the role of institutions invites us to reevaluate and to examine more closely the institutional dynamic between the legislature and the president.

A closer analysis reveals that the electoral logic that regulates the institutional behavior of the legislature during normal times experiences a transformation under certain circumstances. The most important case is when the population votes for a divided government and gives the President less than a congressional majority to rule. When this happens, the president has to negotiate constantly with the other parties in order to obtain the support of the legislature to implement his policies. Another, less frequent case takes place when the president behaves in overt disregard of the constitutional norms or there are serious questionings about his moral standing and his
capacity to reign in the bureaucracy. In those situations, congress reasserts its institutional authority and uses its faculties to reestablish order and the rule of law. There are recent examples of this kind of behavior in the Peruvian legislature: during the Garcia administration when the Senate attempted to block the expropriation of the financial system, the dismissal of Fujimori and his replacement by the Speaker in 2000, and more recently, the centrality of congressional politics during the current Toledo administration that lacks the majority in congress and has no support among the population because of his perceived inefficiency. This last element, referred to the legitimacy of the political actors based on their responsiveness to the needs of the population has not been completely developed by Huntington and it will be analyzed with further detail in the next chapter. However it is one of the conclusions of this dissertation that for institutions to work effectively, the elites that conform the legislature, the judiciary, the executive and the top levels of the bureaucracy must respond to the mass base. Successful transitions require more than a smart political class cutting deals. In fact, for a democracy to have a fighting chance against the new challenges it is essential to promote civic participation and to generate legitimacy, a strong current of support towards the new regime.\textsuperscript{12}

Huntington says that only where institutions are strong will democracy be safe. In fact, as this dissertation will show, it was the strength of Peru's Congress that saved Peru's democracy. As I will argue in the chapters that follow, a continuation of the authoritarian path begun by Fujimori would have resulted had the Congress not stepped in. It was the popular mandate and the institutional strength of the legislature that made this possible.

Huntington is correct in saying that institutions allow democracy to stand and survive. This dissertation shows that institutions may also allow democracy to return.

**Conclusion**

As this chapter has shown, the democratic transitions literature of Latin America has only limited utility in understanding events in Peru. That literature directs our attention to the role of elites, to the role of elite agreements, to the role of the military and to the role of business. But ultimately that literature does not direct our attention to the role of institutions generally and much less to the specific role of a legislature.

Although created to interpret the situation of democracy in post transitional countries, the consolidation literature does present a focus on institutions such as electoral systems, presidentialism vs parlamentarism, political parties and constitutions, among others, that can be helpful for understanding modern transitions. This does not mean that we should ignore the strategic elite interactions and micro-processes taking place among the leading actors of the process leading to the replacement of an authoritarian regime advanced by transitologists such as O’Donnell, Schmitter and Valenzuela. The empirical chapters of this dissertation will illustrate the advantages of this type of approach. However, some of the works of the consolidation literature do help to complement aspects of the Peruvian experience, ignored by transition writers such as the effects of presidentialism.13

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In the face of these deficiencies in the democratic transitions literature, this dissertation turns for guidance to another school of literature, namely the literature on the role of institutions in democracy. The final section of this chapter shows that, it is the institutions literature and the argument of Huntington that leaves us better prepared for the central role of institutions in democratic politics.

Huntington reminds us that without strong and autonomous institutions that respond to the national interest democracy does not stand a chance. This is particularly important for the continent at a point in which democracy is being challenged both by groups who want to increase their quota of power and a population that feels that its expectative of improved life conditions are unfulfilled. In order to understand the problems confronted by new democracies and to provide clues about the areas that need to be reinforced for democracies to become permanent, students of Latin America must look beyond the regional literature. Area studies does not have all the answers, and despite a growing awareness of the importance of institutions such as the legislature and the judiciary there is blatant need for more research in these areas. The pieces discussed in the first sections of this literature review are limited by their neglect of the institutional aspects of the transition. Even though inspired by Huntington’s focus on institutions, my analysis of the Peruvian transition to a great extent constitutes a step on the unknown. It is an attempt to explain a democratic transition as a result of institutional dynamics generated in the legislature. As it will be shown in the empirical chapters of this research,
the legislature, the democratic institution per excellence, will lead a very unique process characterized by extensive bargaining, organized popular participation, a favorable international environment and transparency. This is a model of transition that offers hopes of placing Peru in the path to democratic consolidation.

Precisely because Huntington's institutional argument has proven so useful, this dissertation will venture further into the study of institutions in the next chapter before considering the Peruvian case closely. In the next chapter I consider a subsection of the institutions literature, namely the literature on the U.S. Congress. Here we find both contributions and limitations for understanding the Peruvian case.
Introduction

As the previous chapter illustrates, a significant literature exists on political development and democratic transition, including substantial work on Latin America. Although that literature has a significant number of limitations and deficiencies, for the purposes of this study one of the most important deficiencies is a complete lack of attention to the role of the legislature in the literature on democratic transitions. The purpose of the study at hand is to understand the legislative role in democratization more generally and specifically in the case of Peru. With that in mind, therefore, this chapter now turns our attention to the literature that does exist on the legislature.

That literature draws almost entirely on the study of the United States congress. In comparative perspective the congress of the United States is the most powerful national legislature in the world. It possesses four characteristics that combined, make it unique. First, it is the single most important institution for determining the substance of American public policies. Second, it serves as a forum for the expression of genuine disagreement over those policies. Third, its members are chosen by routinely recurring free, honest and competitive elections. And, fourth, vigorous national print and electronic media subject the institution and its members to constant scrutiny.¹ For these reasons the congress of the United States provides the best standard against which it is possible to compare other

legislatures in the world. Furthermore, the fact that it has been extensively studied by political scientists provides accurate insights about its functioning and about the existing relationships between its institutional characteristics and aspects such as political culture, economic performance, public opinion and interest groups, among others.

This chapter will provide an argument, based on the literature on the congress of the United States, about how and why legislatures confront ‘crises’ such as the one that took place in Peru in 2000 and end up playing critical roles in crisis resolution. The following pages will provide information based on the US Congress literature that will help us make sense out of the Peruvian situation. This chapter is divided in three sections. The first one deals with the issue of the institutionalization of a legislature as a necessary condition to play a significant role in national politics. The second section explains why a reasonably institutionalized legislature may lose its capacity to become a relevant actor in national politics. This section is based on L. Dodd’s cycles of power argument and addresses the decline of congress, the loss of popular legitimacy and the responsibility of members of congress focused only in advancing their own fortunes. Finally, the last section explains the resurgence of congress in 2000 and describes how the legislators were able to sustain enough legitimacy during the crisis so as to be able to reassert the central role of congress and act.

**Institutionalization of the Legislature**

The theory of institutionalization indicates that for a political system to be viable, for it to succeed in performing tasks of authoritative resource allocation, problem solving, conflict settlement and so on, on behalf of a population of any substantial size, it must be institutionalized. This means that organizations must be created and sustained that are specialized to political activity. In this section I will revise the application of this theory
to the United States congress and then I will evaluate its similarities with the Peruvian legislature.²

According to Nelson Polsby’s seminal article “The Institutionalization of the U.S. House of Representatives”³ an institutionalized organization presents three major characteristics: 1) it is relatively well bounded and differentiable from other institutions, 2) the organization is complex, with members specialized in different areas, and has clear rules for the recruitment to roles and for the movement from role to role; and 3) the conduction of institutional affairs tends to be regulated by universal rather than particularistic criteria. Likewise, personal preferences and discretionary powers are limited by the precedence of automatic rules, a merit system and impersonal codes.

Polsby’s objective is to demonstrate that the U.S. House of Representatives has become institutionalized over time. To accomplish this task he takes a careful look at the House in order to identify clear signals of the existence of each of these three characteristics.

Regarding the establishment of boundaries, Polsby focuses on the channeling of career opportunities. In a non-institutionalized organization turnover tends to be very high, members enter and exit frequently, the leadership is rarely permanent, and it can emerge laterally instead of emerging from the ranks of the organization. Persistence of leadership over time is rare. On the contrary, in a institutionalized setting entry is more difficult, turnover is low, access to positions of leadership tends to occur from within and leaders tend to professionalize and lengthen their tenure.

² The institutionalization argument was first advanced in the first chapter of this dissertation when discussing Samuel Huntington’s argument.
Polsby’s analysis of the House shows a well bounded institution. By measuring member turnover since the early congresses he establishes that there has been a distinct decline in turnover rates. Likewise, by studying the careers of the Speakers he finds that there is a clear development of a specialized and very unique position. He measures the number of years serving in congress before a legislator is selected both in the nineteenth and the twentieth century and finds that in the most recent century it takes a lot more years, an average of twenty-six, to become Speaker of the House.

With regard to the growth of internal complexity, or the development of stable ways of doing business within the institution, Polsby focuses almost exclusively in the evolution of the role of standing committees. He makes a historical analysis of the House and finds three clearly defined periods. The initial period took place during the Jefferson presidency when committees developed and were exploited by the brilliant and incessant manipulations of the president himself that selected as chairs those members of the House in whom he trusted. The second period started in 1810 when the Speaker decided to utilize his prerogatives to appoint committee members without consulting with the president. During this period the power over the committees moved from the president to the party that controlled the majority of the House and therefore selected the Speaker. Finally, the last period started in 1911 and it is characterized by the independence of committees from party leaders. Since then the rules of seniority determine automatically the selection of members and chairs of the committees. The work of the committees is increasingly technical and specialized and they are autonomous to determine their internal organization and the way in which they do their work. The legislative reforms of 1946 contributed even more to the reliance of the House upon committees in its conduct.
of business. Nowadays there are clear guidelines regarding the legislative jurisdictions of
the committees, committees with parallel and overlapping functions have been
consolidated and committees have assumed exclusive oversight responsibilities over
agencies of the executive branch. The history of congressional committees in the House
shows that they have grown gradually in autonomy and importance, and that this growth
in workload and functions has been paralleled by a growth in staffs, office space,
budgets, salaries, allowances and other aids and emoluments.

Finally, in order to measure the evolution from discretionary to automatic decision-
making Polsby recurs again to the institutionalization of seniority for the selection of the
chairmen and the members of the committees. By describing the clear decline over time
of the number of violations of the seniority principle Polsby shows how this system, of
universal application in the contemporary House, was developed gradually and it became
generalized around 1910.

The next logical question is why the House became institutionalized. Probably it
had a lot to do with the increasing responsibilities and the amount of work it was required
to perform. As the decisions taken in Washington DC affected more and more the
national economy the members of the House felt the need to increase their level of
interaction and coordination. The need to deal efficiently with a sizable volume of work
promoted the development of mechanisms that allowed the legislators to distribute the
tasks according to rules and procedures

A byproduct of the institutionalization of the House was to make legislative careers
attractive for politicians. The increase in resources and institutional capacity transformed
the organization from a convenient instrument for the pursuit of social change into and
end value, a prime source of gratification, status and power. The increasing complexity of the division of labor allowed legislators to specialize in a specific area and to be able of exercising an enormous amount of influence in the policies regulating that matter. The total impact of a cadre of specialists in all different areas of policy making constitutes a formidable asset for the organization and it has enabled the House to retain autonomy and influence over public policy unequal to any other legislature in the world. As we can see institutionalization has also meant that the power of the House in policy making has increased and that there are more incentives for legislators to get involved in active policy making.

Another consequence of institutionalization that is not formally compiled in the rules and procedures of the House is the development of informal rules of conduct among legislators. Nowadays, the norms of predictability, courtesy, and reciprocity are offered by professional legislators as central to the rules of the legislative game. Polsby shows how at the beginning of the history of congress it was not unusual to hear stories about “guns, and dogs, and duels that occupied much of the nineteenth century”. This change in the behavior from disorderly and chaotic to peaceful and professional reflects changes in manners and morals but also reflects the growth of an institution that is capable of instilling among its members the need to behave loyally and with good manners.

The basic point in discussing this literature is to say that, for legislatures to be powerful and possess legitimacy, they first must develop some degree of institutionalized stability and persistence. Polsby shows how that happened in the US, by the creation of such things as a stable committee system, norms and procedures that were well developed for the conduct of business, formal elections, processes for selection to the assembly and
leadership in it, a formal meeting place that was structured for legislative action, and so forth.

The relevance of this literature for the case of Peru is that one of the arguments of this dissertation is that by 2000 the Peruvian legislature had developed a reasonable degree of institutionalization and this meant that, in crisis, the legislature was nevertheless a formidable organization.

There are important differences between the US Congress and the Peruvian legislature in terms of institutionalization. In the first place, the period of institutionalization in the United States took place between 1890-1910, in most of the measures utilized by Polsby’s analysis. In other words the US Congress became institutionalized approximately one hundred years ago, at a time when it had already existed for a century. The Peruvian congress, although originally inaugurated in the 1820s, has lacked the continuity of its North American counterpart. Only to mention the events of the last twenty five years, the Peruvian congress reopened in 1980 after twelve years of military dictatorship. In 1992 it was disbanded again and reopened in 1993 under a new constitution that transformed the basic structure of the organization.\(^4\) From 1993 to 2000 its democratic credentials were compromised by the irregular influence that Fujimori exercised over the institution. Due to the events described in this dissertation, in 2001 the entire congressional representation agreed to an early termination of their mandates and a new set of representatives was elected in that year. The current members of congress will be in their seats until 2006.

\(^4\)For more information on the structural organization of the Peruvian Congress, see the final section of this chapter.
Despite its lack of continuity, I argue that by 2000 Peru’s congress had developed a significant degree of institutionalization under the three criteria presented by Polsby. Regarding its differentiation from other institutions the measure utilized by Polsby was congressional turnover. Peru’s record does not compare to the United States on this respect. The congresses elected in the 1980s were characterized by very high turnover, and the last three congresses elected since 1993 show relatively low rates of reelection—45% in 1995, 25% in 2000 and 25% in 2001—compared to the near 90% reelection rates in North America. Because of this, in order to measure how bounded the Peruvian congress is, it is better to look for other signals of institutionalization. For instance, the fact that congress has been formally consecrated in each one of the thirteen Peruvian constitutions as the source of all legislation and as one of the pillars of a separation of branches regime modeled after the United States. Likewise the fact that it has a building that symbolizes it and that has been in the same location for more than one hundred and fifty years, that the population identifies as the seat of the legislative branch. Finally, there is another sense in which the Peruvian legislature is bounded and it refers to the prestige associated to the office and to the positions of leadership within the legislature. A congressional career is one of the main aspirations of Peruvian politicians and obtaining a committee chairmanship and specially, being chosen as Speaker provides

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5 For instance, the Accion Popular party that obtained an absolute majority of seats in 1980, obtained less that 5% in 1985.
6 Calculated by the author based on congressional records.
7 Morgenstern in his study of Latin American legislatures argues that the reelection factor does not have the same relevance than in the US because legislators depend on the fortune of the political party they belong to.
substantial prestige and political power. These positions provide a great deal of publicity, opportunities to influence important legislation and the possibility to acquire resources for further advancement in the political ladder.

The second characteristic of an institutionalized legislature is internal complexity and there is no doubt that Peru’s congress is a modern organization with clearly differentiated areas of specialization. Particularly since the 1993 constitution that transformed the Peruvian legislature in a unicameral assembly, committees have become central for the functioning of the institution. Peru did not need to go through one hundred years of history to realize the value of small teams of highly specialized congressmen discussing a particular policy area, it only needed to look North and learn from the United States. Peru has a system of standing committees, conformed by an average of ten legislators who hold weekly meetings to analyze legislation. Once the committee reaches a decision, particularly if the decision is a unanimous one, the floor does not debate the matter any further and proceeds to vote the bill. The committees, particularly since 1993, have been provided with adequate, budget, professional staff and salaries for the appointment of trusted aides, comfortable offices and meeting rooms, a numbers of telephone lines, copy machines and personal computers linked to the world wide web. They hold decentralized sessions in the interior of the country and their meetings are broadcasted to the nation via cable television.

The Peruvian legislature also counts with an administrative section that supports the congressional work. The CEO of the legislature, the Oficial Mayor, and the senior

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8 Unlike in the United States, political careers in Peru typically involve participation in several areas of government: the legislature, the Executive branch and municipal tenures in the most important cities of the country. Not all congressmen are interested in reelection campaigns.
administrative staff, have had a long tenure in the institution and command a well organized staff of about 1500 members that keeps congress running. A section of the staff is devoted to provide additional services to the committees such as legal support, libraries, elaboration of agenda, coordination of the meetings of the different committees and constantly up-dating the web page of congress, one of the most complete and efficient legislative portals in the Spanish speaking world.⁹

As it will be shown in the empirical chapters of the dissertation, the autonomy of the committees during the Fujimori administration was questionable and their agendas were often overridden by the President. However, even in crisis, the division of labor typical of a complex organization existed. Peru’s legislature complied with Polsby’s second characteristic.

The final aspect, primacy of impersonal and automatic regulations over discretional decisions is harder to asses, particularly because during the period under study the legislature was subject to ever-growing interference by the Executive. The fact that the party of government, Cambio-90-Nueva Mayoria, had an absolute majority of the seats throughout the 1990s provided this group highly responsive to the President, with the capacity to override the minorities every time. The president, in coordination with the Speaker, who invariable was one of his most loyal supporters, determined committee assignments and leadership positions.

Even though standard procedures--established in the Rules of Procedure of Congress--were followed in the day to day functioning of congress and for the regulation of legislators’ activities, duties and prerogatives, the legislators knew that certain aspects

⁹www.congreso.gob.pe
of the regime were not subject to debate. They were also aware that the law or the constitution would not stop Fujimori’s pursuit of power and reelection. An example of the disregard the government had for the legality was the bribing of congressmen to shift their allegiances to Fujimori’s party in 2000. However, as in the United States, these automatic rules and universal procedures did exist and they responded to the democratic principles of the Constitution. As soon as Fujimori’s hold on power was lifted the legislature found legitimacy and assurance in sticking to them.

The asphyxiating power of the Executive over congress also slowed down the development of a professional behavior among members based on loyalty, transparency and mutual trust. Despite this external factor, the Peruvian legislature has seen almost no incidents of aggressive behavior among its members. Legislators both from the opposition and the majority were treated equally in terms of salaries, benefits, access to staff and services and were given liberty to perform their activities. Undoubtedly this contributed to facilitate the coordination among parties once the Fujimori regime unraveled.

As I mentioned before, the importance of the literature of institutionalization for Peru is that the legislature there had developed a reasonable degree of institutionalization, with committees, procedures, norms of a sort, a Congress building, and so forth. This meant that, in crisis, the legislature was still a powerful institution, had an elected membership that composed it, committees that had to be closed down and an election process linked to popular voting (and thus some degree of popular legitimacy). It also meant that, as the country looked to crisis resolution, there was a democratic institution with formal rules, leadership, a building, committees, and so forth, to which it could turn.
In the next section, the central one of this chapter, I will explain why, given a reasonably institutionalized legislature, this crisis with the executive nevertheless occurred. Why did the legislature let things get to the point of crisis, and why were the legislators able to act in the end, despite their earlier failures. In part, of course, this had to do with Fujimori’s dictatorial tendencies and with context, such as terrorism and the nation’s desire for strong executive leadership. But that is not the whole story.

**Dodd’s Theory of Cycles of Power in the United States and Peru**

This section addresses two fundamental questions: Why did the legislature abdicate its role in checking the executive so extensively, and then why did it take back that role and facilitate transition beyond crisis? My argument is that the literature of Congress in the United States provides a novel and comprehensive answer to these interrogations. The discussion that follows is based mainly on L. Dodd’s theory of legislative cycles compiled in different publications. What that work argues is that there is a kind of inherent cycle in the life of legislatures, wherein members of an institutionalized legislature will tend to focus on their personal power and well-being trying to enjoy and solidify the ‘fruits of victory’; in so doing, they fragment the institution, become preoccupied with personal power and rewards, produce immobilization of the policy process within the legislature, and thereby create an opportunity for an executive to expand his role and power (even to the point of engaging in patronage and brokerage politics with individual members, who then owe the president their vote, their loyalty and their silence).

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In the following paragraphs I will present a more detailed version of the theory as it was developed by Dodd and then I will explain how it can be applied to explain the decline of the legislature after the election of Fujimori in 1990. Despite the many differences between the US Congress and the Peruvian legislature in terms of power and national influence, as well as the variations of Presidential regime that each country has, what is most striking is how this theory that was developed specifically for the United States could be so appropriate to describe the relationship between the executive and the legislature in Peru.

“A Quest for Power” is the title of one of Dodd’s articles and a metaphor that describes careers on the legislature. Since their first day in office individual legislators enter a race to increase their levels of prestige, influence and power among their peers and in the nation. The first lesson they learn is that they need to secure their reelection in order to continue in their quest. To avoid alienating possible voters they will not assume controversial positions, opting instead for making vague statements and avoiding tough choices, in other words they will give up power itself if that endangers reelection.

Once reelection is secure, the next goal is to capture a position of power in congress. For that to happen individual legislators need to convince their peers that they are worthy of that responsibility. Furthermore they require an institutional structure that maximizes their ability to obtain positions of power and provides a reasonable number of openings. The committee system provides them with the best channel to continue their quest for power. Individual legislatures can specialize in a certain policy area and devote all their efforts to increase their personal influence over those areas. Naturally they will try to obtain the control of those committees that have the broadest public appeal. In
order to win these attractive positions legislators must “prove themselves deserving of membership”. They must follow rules such as seniority, courtesy to fellow members, specializing in certain limited areas, willingness to work hard on legislation, assuming policy positions within the range established by senior members of the committee and to be willing to reciprocate favors in a system where the division of policy areas does not mirror the way in which situations arise in national life. Those who are most successful at following these rules may aspire to the ultimate goal in the quest of power; service in the party leadership as party leader or speaker.

The resulting committee government that has been in place in America since the early twentieth century provides important benefits. Having a cadre of experts in different areas of public policy gives the institution autonomy from the executive and from interest groups trying to advance their goals counting on the ignorance or the lack of resources of the legislature. It also provides a significant number of positions of leaderships for congressmen in their quest for power.

Despite these benefits Dodd finds that committee governments has also a number of disadvantages, the main one being that “by its very nature lacks strong, centralized leadership, thereby undermining its internal decision making capacity and external authority”¹¹. Congress needs centralized leadership because most decisions necessarily cut across the jurisdiction of different committees. The dispersion of power makes congress very slow to address important policy matters and tends to produce legislative paralysis or norms that are incoherent. Additionally, in terms of the external image of the organization there is not a spokesperson who can present the general opinion of the organization.

¹¹ Dodd. “Congress and the Quest for Power” p. 277.
legislature to the public. This is a clear disadvantage in the case of confrontations with the Executive because the president can always articulate a comprehensive and straightforward position, making congress appear disorganized and aimless to the eyes of the people.

The lack of a guiding leadership is also reflected in the lack of fiscal coordination within congress. Individual committees produce legislation that allocates expenditures without making sure first that the revenues necessary to cover them exist. This produces frustration among voters because many expectations are not met by actual governmental action.

The very principle of seniority, that Polsby utilized to establish the existence of universal and automatic rules that must characterize an institutionalized organization, produces some undesired consequences. Committee chairs that have a secure position are not concerned by representing the feelings of the majority of the population when making policy decisions in their specific committees. They are free to follow their own predilections and stop any legislation that they do not like, which ends up affecting the principle of accountability that must rule representative institutions. This is particularly pervasive when important positions are occupied by legislators who have secure seats in areas of the country whose way of thinking is not representative of the majority of the nation. The danger of this behavior is that it may undermine the popular support that congress requires to exercise power.

A final disadvantage of committee government is that prevents congress from exercising one of its more essential functions: executive oversight. Committees became so involved in working with interest groups and bureaucratic agencies that they become
committed to the continuation of the programs that they create and fund. They are unlikely to investigate failures of these programs because it would mean to recognize that they did something wrong in the first place.

The irony unveiled by Dodd’s analysis is that committee government attempts to help legislators in their quest for power by dispersing internal congressional authority so widely that ends up paralyzing the institution and preventing it from performing its constitutional duties. There is an ultimate incompatibility between having a congress where power is widely dispersed and having a strong congress that has a real influence in national politics.

Overtime the people feel more and more discontent with the incapacity of congress to generate wide-ranging policies and to break the deadlock among its different committees and sub committees. Eventually, policy analysts and the public in general will turn to the president for guidance and especially for coordinated and adequately funded policies. The president after all has also a mandate based on popular representation and should be responsive to popular sentiment. Once this dynamic is generated the president’s role in policy making becomes so central that he feels that he can ignore the wishes of the legislature and simply adopt his own solutions ignoring the opinions even of the most important committee chairs. Even though the discussion on Peru will follow the presentation of Dodd’s theory for the United States, I must point out that these paragraphs could have been written having in mind the Peruvian legislature.

The presence of this overbearing imperialist president convinces members of the legislature that they must introduce certain reforms or resign themselves to become minor players in policy making. The response to a crisis that may render their hard-won position
of powers meaningless is usually wide ranging and includes: a more centralized congressional leadership, budget reforms, congressional openness, mechanisms for coordination among committees and new tools for executive oversight, among others. However, congressmen do not want these reforms to go so far that they affect their future possibilities to reassert their individual power and therefore there are built-in structural flaws that will reverse the centralization process once the confrontation with the president passes. If the only objective would be to reassert the national power of the legislature the centralization reforms would be more effective but they would impact negatively the legislators’ quest for power.

Thus Dodd discovers the cyclical nature of congressional dynamics in the House: At the beginning, when congressmen obtain a seat and are trying to gain national stature they decentralize power and generate committee government. This type of arrangement produces stalemate and disjointed policy making that forces the president to assume a leadership role. The presidential domination of the policy agenda escalates to a point in which he launches an assault on the prerogatives of congress itself (in the case of a country like Peru the assault is quite literal). Congress reacts to the president by implementing centralizing reforms that allow it to speak with a unified voice. Once the president becomes aware of the legislature’s new attitude, he will back down and cooperate, lest of being accused of violating congressional prerogatives and therefore lose legitimacy. In the face of congressional reform, the president’s claims of protecting the republic from a legislature that failed to provide leadership would sound undemocratic and seem an excuse to aggrandize his power. Once the crisis passes, individual legislators become concerned with their own political futures and push for decentralization to be
able to develop their own niches. Congress once again becomes decentralized, leaderless, unresponsive to the public and unable of producing coordinated policy or to check on executive agencies. This gives the executive a new excuse to reassert its power and the cycle of institutional crisis and reform begins again.

Dodd’s theory of cycles of power provides a powerful lens to make sense of the two hundred years of history of the House of Representatives. For the purposes of a comparison with the much newer and more fragile Peruvian legislature, it is useful to present a brief summary of the historical unraveling of the crises of the House\textsuperscript{12} from the early congress to its lowest point during the Nixon administration. Throughout most of the nineteenth century the leadership of congress had a lot of power, basically because it was necessary to avoid chaos in a context of high turnover and a legislature that functioned only a few weeks a year. The centralization of the conduction of the legislature in the hands of the Speaker and the majority leader denied most legislators the possibility to gain political power. As careers in congress became more attractive the lack of power opportunities created frustration among the rank and file members. Between 1910 and 1915 the numbers of the discontented were large enough to overthrow the speakership and the party leaders and to disperse power to the standing committees. That new organization made congress unable to act forcefully in national policy and thus presidential power grew enormously while congress floundered. A good example of this era was Roosevelt’s administration when “many congressional committees were overwhelmed by the executive, their staff work was conducted by staffs from the

\textsuperscript{12} For a more detailed historical account see L. Dodd’s articles mentioned at the beginning of this chapter and J. Sundquist, 1981. The Decline and Resurgence of Congress”. Washington DC: The Brookings Institution.
agencies, their legislation came from the president and the agencies; many committees would not consider legislation that was not approved by the Bureau of Budget and the legislation that did pass congress provided the executive broad rule-making authority." I chose to quote Dodd’s words to highlight once again how striking the similarities between the House under imperial presidency and Fujimori’s congress are.

After World War II congress introduced some centralizing reforms and increased its budgetary and professional resources and was able to show independence from the executive. The existence of divided government helped to assert the autonomy of the House. However by the 1950s and 1960s decentralization and consequent deadlock characterized the legislature. In order to break the power of the committees, multiple subcommittees were created and as a result by the 1970s power in congress was more decentralized than it had ever been. As expected, the powers of the president became paramount and dominated national politics. By the 1970s the executive had been able to impose on congress the secrecy system that gave the president and agencies the discretion to ignore Congress easily justifying their behavior on the fear that legislators may expose national secrets. By the 1970s during the Nixon administration the Executive had exceeded by far its legitimate constitutional role. Vietnam, Cambodia and Watergate were symbols of this breakdown, but the most direct assault on congress took place when Nixon try to impound duly appropriated funds. His justification for his behavior was that “this unconstitutional acts were necessary to save the republic from the economic disaster inherent in the budgetary deficits produced by the fiscal irresponsibility of the decentralized, leaderless, uncoordinated, unresponsive, insulated congress”. An argument

13 Dodd. “Congress and the Quest for Power” p. 286.
very similar to those used by Latin American presidents who want to impose their will over weak legislatures. The House responded to Nixon by reforming its internal organization and procedures again. After that congress appeared resurgent.

The origins of the cyclical nature of congressional history are in the Constitution. The congress as imagined by James Madison in the eighteenth century would be an institution that tended to concentrate power in a few individuals because most people in an enormous agrarian nation would not be interested in a career far from their homes in a city built on a swamp. Therefore he feared congress as the primary threat to the republic and directed the most attention to constitutional constrain on Congress. The cycles would work as another check on the system. However, his vision does not apply anymore. Not only modern life is very complex and rapid, efficient and broad reaching solutions are needed, but also congress has become a very attractive professional path. The decentralization and the cycles of decline and resurgence damage the institution.

Dodd is very concerned by the growing intensity of the cycles. According to him each cycle the president gains more power than he is forced to give up. The reforms attempted by congress are necessarily half-hearted because there is always the implicit motive of providing openings for the advancement of individual careers. Thus immobilism will continue characterizing congressional politics and providing a justification for the resurgence of presidential ambitions. With each cycle also there is an increment in the depth of presidential transgressions and illegal or unconstitutional behavior. The other side of the problem is that public opinion also becomes frustrated with congress’ inefficiency and ends up relying on the president for a solution to their problems. There is a growing danger that the conditions may worsen to a point in
congress will not be able to constraint a president who oversteps the constitutional boundaries

The thrust of Dodd’s argument is that the Madisonian system is self destructing. Legislators who have a stake in maintaining the status quo will not address the inherent tension between the quest for power by individuals and the need of maintaining external authority for the institution. The resulting immobilism will undermine congress ability to perform its constitutional roles, giving ambitious presidents the perfect opportunity to exercise unchecked power and even to obtain the blessing of the people for his behavior.

The solution advanced by Dodd passes necessarily by a constitutional amendment justified by the socio-economic transformations that have taken place since the constitution was written. Because of the complexities of modern life, the office of the president has become much stronger than it was ever imagined and it is necessary to reinforce the capacity of congress to check on its power. It is necessary to create mechanisms that “while sustaining a degree of congressional decentralization will lead legislators naturally to support centralizing mechanism that can sustain institutional integrity”. Constitutional amendments in the United States are very difficult affairs but the risks of not taking this challenge are great. The case of Peru, where a powerful president disbanded a congress that was not up to the challenges of the time, and where this assault on the constitution was met with strikingly high popular support, makes Dodd’s theory a premier tool to examine the fragile legislatures of the new democracies. This is what I will do in the following paragraphs.

In order to establish the relevance of the cycles of power argument for Peru it is necessary to delineate the existing conditions in 1990 when Fujimori was elected
president. At that point the nation was going through one of the most unstable periods of its history. The government was waging a war against the insurgent forces of Shining Path and the Tupac Amaru Revolutionary Movement, a war whose final death toll would be around 30,000 casualties, and had declared the state of emergency and the suspension of constitutional guarantees in many areas of the country. Additionally, because of the war effort and the isolationist economic policies of the previous regime the economy was in shambles. A four digit hyperinflation was accompanied by a drought of international financial flows as a result of Peru’s decision to limit unilaterally the payment of its external debt.

Fujimori’s triumph in the 1990 election was in part due to the polarizing effort of the highly ideological campaign waged by the center right coalition FREDEMO. This coalition was the most likely winner of the election until the last two final weeks of the campaign when Fujimori’s popular support grew unstoppably. FREDEMO’s platform was to enact immediately a structural adjustment plan that would radically transform the economy of the country according to the principles of the neoliberal model. The APRA party, in power at the time, argued very persuasively that the “shock treatment” promoted by FREDEMO would affect terribly the already low living conditions of the majority of Peruvians. Fujimori, an outsider with no ideological commitments, capitalized from this conflict offering ‘change without shock,’ and became the third president of Peru since the democratic transition of 1980.

These principles are contained in what is known as the Washington consensus and include privatization of state corporations, reduction of the size of the bureaucracy, reduction of tariffs, elimination of subsidies and rising taxes, among other measures. The objective is to prepare the government to be a efficient player in a free market economy.
The 1990 election produced a multi party congress that was very unlikely to provide the direction the nation demanded at this difficult time. First, the president’s party, Cambio-90, had little more than a third of the seats and was a mixture of people who never thought they could become legislators. There were secretaries, evangelical preachers, small business owners, unknown professionals and others whose only claim to fame was having received a call from Fujimori asking them to sign up for one of the seats of the list he needed to present before running for the presidency. They were very glad to receive their fat paychecks and with very few exceptions they knew nothing about the business of politics, other than they wanted to continue enjoying the perks of the office. The FREDEMO coalition had the largest representation in congress but it was composed by several center right parties whose only reason to stay together was to win the election. Having lost to Fujimori, centripetal forces destroyed the coalition and each party, and individual legislators within the parties, tried to advance their individual agendas. Some of them thought that it was better to join forces with the Executive than to provide an independent voice from congress, and offered their services. The same happened with the few representatives from the Left who were welcomed by Fujimori at the beginning of his tenure. Finally, the defeated APRA party declared its open opposition to the new president and started a long road to rebuild the oldest Peruvian party.

As the previous paragraph shows, in 1990 Peruvian legislators became preoccupied mainly with their personal security, well being, with becoming national figures in executive agencies and some of them even tried to obtain positions where they could profit from the national treasury. Because of the legislators’ obsession with their own quest for power, congress did not develop strong action to address terrorism,
hyperinflation and international financial isolation. Concentrating on their own personal futures legislators ignored the fact that Peru was on the brink of chaos and that congress had a constitutional duty to lead the nation. If a professional legislature like the United States with two hundred years of democratic history and with practically unlimited economic and human resources has not been able to address the most important policy issues of that nation, it must not surprise us that the ten-year old Peruvian congress, fractioned into ideologically weak parties, with minimal resources in terms of budget and professional staff and led by the party of the president composed by fortunate amateurs with zero knowledge of the workings of congress; failed to exercise any kind of institutional will.

In *Congress, the Constitution and the Crisis of Legitimation* Dodd\(^\text{15}\) indicates that the capacity of congress to centralize power and play a role in national politics is conditioned by environmental factors. In the case of the United States, particularly during what he calls the Age of Protest (the 1960s and 1970s), there were major changes taking place. The United States was being transformed into a service economy, the federal influence over the states kept growing, there were economic constraints because of the United States role in the world that affected its capacity to cover domestic needs and, in general, many more groups claimed for participation. Likewise in Peru, the threat of escalation of guerrilla activities and an economy in ruins produced a highly volatile, complex and threatening environment that the newly elected elite had to confront. It is fair to say that a few individual legislators, particularly from FREDEMO did try to articulate a proposal to deal with these problems but given the dispersion of powers and

\(^{15}\) Dodd, L. 1981. Congress, the Constitution and the Crisis of Legitimation. *Congress Reconsidered.*
the self interested behavior of most congressmen it did not result on a united congressional voice.

Instead, the president intervened and assumed the leadership of the fight against terrorism and economic paralysis. Fujimori was motivated by the need to address the problems of the country and to avoid total chaos but he also had a hidden agenda: to eliminate congress and to concentrate all powers in his office. He initiated a campaign of discredit against the legislature accusing its members of creating obstacles and worrying only about their personal campaigns instead than in the welfare of the country. Hidden agenda or nor, the truth is that “the real power of congress rests on the ability of its elected members to legislate and to respond effectively to policy needs, interests and demands, in short, to act”\textsuperscript{16}, and congress failed to do that. The difference between an old and consolidated democracy like the US and new democracies like Peru, may be that in the former, presidential assertiveness and imperialism may derive from a very genuine presidential concern for economic stability or national security and from an accurate perception than congress cannot act; instead in new democracies, congressional inaction provides the perfect strategy for potential dictators pursuing democratic breakdown.

Between 1990 and 1992 Fujimori gradually built his case by overwhelming the legislature with requests to produce the laws that would address terrorism and economic crisis. Congressional deadlock, inexperience and lack of resources combined to prevent the delivery of these tools. Legislators limited their constitutional role to delegate broad powers so that Fujimori could issue decrees. In less than two months the executive issued close to two hundred decrees that transformed radically Peru’s economy, bureaucracy,

\textsuperscript{16} Dodd, Congress, the Constitution and the Crisis of Legitimation, p. 412.
relationships with the armed forces, criminal legislation, anti subversive strategies and even social matters. The package of decrees was presented by the president as the strategy for national reconstruction. When the legislature tried to react and made a few observations regarding openly unconstitutional dispositions, Fujimori launched his final assault. On April 5 of 1992, with the support of the armed forces, Fujimori ordered the dissolution of congress and the judiciary.

Dodd’s great fear had materialized in Peru: “a point will be reached in this cyclical decline of congress beyond which the citizenry no longer looks to congress as a necessary participant in national governance, a point at which the slow transformation away from representative democracy becomes an institutionalized and popularly accepted reality.”

Only twelve years after its inauguration another congressional era ended. Fujimori’s popular support for the closing of the legislature was above 80%.

International pressures and the threat of sanctions forced Fujimori to reopen the national assembly. However the weakness of the previous legislature and members’ preoccupation with themselves gave Fujimori the power to reorganize the legislature according to his own rules. Six months after the self-coup a Constitutional Congress was elected and a majority subservient to Fujimori wrote the 1993 constitution. Among the changes that impacted more directly the legislature were the elimination of the Senate, the reduction of the number of representatives (from 240 to 120), reduction of powers of appointment and ratification of high ranking officials, and the elimination of the multiple district system for the election of legislators.

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The next eight years, from 1993 to 2000, were characterized but the gradual aggrandizement of the presidency at the expense of the legislature. In 1995 Fujimori was reelected and once again his party obtained the majority of the seats. The strategy for the quest for power utilized by the congressmen of Fujimori’s party was to establish clientelistic ties to the executive. Appearing next to the president during his frequent travels and inaugurations or befriending an important minister or senior agency director became the favorite mechanisms to consolidate personal power. Instead of asserting the congressional will and keeping the executive accountable to the public, the legislators favored a subservient attitude targeted to obtain the trust of the president and to obtain favors from executive officials with capacity to deliver bridges, schools, state contracts or housing projects to their constituencies. The leadership of congress and the majority party in Peru was similar to the leadership during the Jeffersonian era in the United States when the president selected his most trusted lieutenants for these functions. The willingness of the legislators to sacrifice independence in order to maintain their positions of power is the only explanation available for unrepresentative behavior such as ignoring the public claims to investigate mounting evidence of corruption surrounding Montesinos and the acquisitions made by the armed forces. Likewise, in their desperation to serve the president, in 1997 the majority of congress overstepped its boundaries and disallowed a resolution of the Constitutional Court forbidding Fujimori from running for a second reelection. Congress dismissed the constitutional judges and declared that Fujimori could run again. However, the lowest point of congressional decline and loss of legitimacy took place in 2000 when it was discovered that the government had bought with bribes the allegiances of a dozen recently elected legislators. These congressmen had been elected
by the people to represent parties of the opposition whose main agenda was to stop Fujimori, and they betrayed the popular mandate in order advance their careers, to obtain economic rewards or to fix previous problems with the justice.

Despite this ongoing process of congressional self-destruction and the loss of legitimacy of the institution, according to the cycle of power argument, a point will be reached where legislators and parties realize that, if they let the executive go totally unchecked forever, the legislature will have no power and they will become totally expendable. As that point is reached amidst national crisis, they suddenly see the need to focus on regaining power for the legislature, even at the expense of their own immediate benefits, and start to coalesce, stand up to the executive, and try to reassert the power of the legislature.

I argue that this point is reached on September of 2000 when a video showing presidential advisor Montesinos bribing a congressman is broadcasted during a press conference offered by an legislator from the opposition. The parties of the opposition, both in and outside of congress, had been trying to reorganize since the late 1990s and in the elections of 2000 there were a number of congressmen who wanted to recover autonomy from the Executive. The people of Peru also wanted to change the way in which the president was concentrating power and in the 2000 general election, they gave the majority of the seats to the opposition parties. However, despite the national protest, Fujimori and his allies in congress had had enough time to generate an institutional inertia that was very difficult to stop. Only an incontestable proof of governmental corruption at the highest level, whose validity could not be questioned by anyone could initiate the reverse cycle of congressional resurgence. The video provided that proof and
that is why I chose that event as the starting point for the empirical chapters of my
dissertation.

Chapters 3 to 6 will show in detail how the legislators begin to address the national
crisis. There is a feeling of urgency because the legislators know that failure to act
indefinitely can produce a crisis of legitimacy so severe that the legislature will be
destroyed again. Since Fujimori’s immediate response to the video-scandal was to call to
new elections in which he would not participate, the legislators realized that there was an
imminent threat of power vacuum that could send Peru back to a period of chaos and
instability. However, acting in time could aid the legislature and at least some of its
parties and members to survive in power, reassert itself, and rebalance the power
equilibrium among national institutions.

Without going much further on the description of events that correspond to the
empirical chapters, it seems to me that the cycle of power argument, combined with the
legitimation crisis argument, based on the US Congress literature, provide a superb
explanation of why a reasonably well institutionalized legislature such as the Peruvian
Congress would get itself into the problem it faced in Peru, and then why it could in the
end get itself out, at least to some extent.

**Congressional Resurgence: Representation and Legitimacy**

Concern about national crisis and capacity to respond legitimately to such crises are
tied to how well legislators stay connected to the public and are responsive to their
constituents. In a consolidated democracy this is achieved through the national parties
that collect information from the public and transmit it to their leaders in congress. L.
Dodd’s essay “The Cycles of Legislative Change”\textsuperscript{18} illustrates how in the United States the minority party, or a minority faction in the majority party, will see electoral and political advantage in the coming of national crisis and offer a national agenda and national action to help solve the crisis, leading to a resurgence of legislative attention to institutional power and policymaking. Thus the existence of parties, and well organized factions within parties, and of formal or informal organizational activities that may continue amidst the crisis, even amidst the closing of the legislature, can play a vital role in crisis recognition and resolution.

Another relevant aspect of the power cycles theory is that it is citizens and lobby groups who will pressure legislatures, or move to replace them, in an effort to offset the fragmentation crisis and solve the national crisis. Therefore, processes of representation, elections, party politics, lobbying and interest group activity are vital. Thus the existence of institutionalized election processes, public opinion surveys and an independent media can be vital to citizens’ ability to get the attention of legislators.

In addition, the quest for power argument suggests that individuals members who have benefited in the election and power through fragmentation will come to recognize that they stand to lose power and electoral security unless they act on the crisis: so in some degree powerful individuals who have benefited from electoral resources that come with fragmentation will, amidst crisis, learn or recognize the threat that the crisis poses to power and election, unless they address it. Such learning or recognition may be particularly facilitated by how closely attuned to their constituents they are.

So factional and party politics, voters and interest group politics, and learning by powerful leaders—all of these things can make the politics of representation quite central to crisis resolution. Factions and parties will maneuver to appeal to groups and the national electorate concerned with crisis, offering to better represent them in the solving of the crisis than the current elite. Citizens and interest groups will look for ways to pressure legislators to solve the crisis, doing so through interest group activity, public opinion, and threats at the election stage. And powerful legislators themselves will understand that they and their faction/party need legitimacy with the electorate and, in so far as possible, may try to respond to crisis in a way that shores up their electoral support and survivability, even if it means some centralization and decrease in fragmented power.

The principles stated in the previous paragraph draw on the experience of the US Congress but they are part of a general theory of congress that is applicable to all institutionalized legislatures. Empirical efforts, such as this dissertation, to build from this theory require some interpretation before applying it to a particular legislature, especially when the context is a new democracy struggling to free itself from an authoritarian president. In the empirical chapters I show how it is possible to identify in Peru the effect on representation of parties and party factions, voters and interest groups, and learning by powerful political leaders. However, an important difference between the party systems of the United States and Peru has to do with their permanent character and their centrality in politics beyond elections. In fact, one of the characteristics of recent Peruvian politics is the lack of strong political parties and that it is relatively easy for outsiders to enter electoral contests and win them. Since the end of the Garcia administration in 1990 until the Post Fujimori election of 2001 none of the traditional parties--APRA, Accion
Popular, United Left and Partido Popular Cristiano--was able to obtain even 10% of the vote. However, in September 2000 Peru’s parties on both sides of the aisle were in a heightened state of alert. The year leading to the general election in March and April (Runoff election) of 2000 was characterized by intense grass-root campaigning by the multiple political parties of the opposition and specially by Fujimori’s party. The official P2000 utilized state resources to campaign for the second reelection of the president to a point in which it was impossible to differentiate between party campaigns and governmental action. The color of the party, orange, was utilized for the signs of all public projects built throughout the country in an obvious attempt to send a message to the electorate. Beneficiaries of social assistance programs such as “Glass of Milk”, “Soup Kitchens” and micro business associations were mobilized by the government and threatened with the suspension of the programs in case Fujimori failed to win the election. Even the armed forces were involved in distributing pamphlets and t-shirts with the president’s logo. On the side of the opposition, more than a dozen political parties had competed to obtain the votes of those who disagreed with Fujimori and had been successful at winning seats in the legislature. In the end Alejandro Toledo, a relative outsider,\(^{19}\) who created a large party with a powerful electioneering machine able of organizing big rallies and demonstrations was by far the most representative politician of those who wanted a complete make over of the regime. In summary, despite its weak-party tradition and its focus in electioneering, Peru in 2000 did have organized parties that competed for the affection of the electorate and tried to adjust their platforms to offer a solution to the crisis.

\(^{19}\)Toledo had run for president for the first time in 1995.
After highlighting the theoretical aspects of representation, this section will discuss how the Peruvian legislature was able to maintain some popular support throughout all of this cyclical ebb and flow, given how inept it had been initially, and given that it was closed down for part of the time. This section begins with a brief discussion on the US Congress literature on representation that addresses how elections, campaigning and efforts at representation can serve to build popular support for members and for the legislature. The second part of the section deals with how and why the legislators in Peru were able to build personal and institutional support through their representational roles that aided the continued legitimacy of the institution, despite the crisis unleashed by the video of Montesinos.

Although everyone agrees that representation constitutes the defining element of an assembly, there is less agreement on how can we judge whether an assembly is being representative or not or what characteristics should a representative assembly exhibit. The first aspect to take into consideration is the process by which representatives are selected and removed from their positions. At root congress can be called representative because it is an elected body of citizens who gain office through a system of free and fair elections that take place periodically. If the citizens consider that any member has become unrepresentative they can remove him by electing another candidate in the next elections. Through elections voters hold legislators accountable and provide incentives so that they respond to the will of the people and promote their interests. However, elections by themselves are not enough. It is necessary that people participate accepting the results of these elections and the right of the assembly to make decisions that affect the population

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as a whole. This is what we call legitimacy. Only when elections are coupled with legitimacy it is possible to assert that congress is a valid representative institution.

An additional argument in favor of the representative credentials of congress is that members think of themselves as representatives and worry about their behavior in that light. In the particular case of the United States legislators realize that there are conflicts between the demands of their party and their individual districts. Likewise they recognize that sometimes they have a personal stance that is different than the party’s and their district’s. In the United States legislators invest great amounts of resources to balance these conflicting loyalties. In most cases congressmen are genuinely concerned with their constituencies’ attitudes. Although on some occasions congressmen may seek to represent the “national good” or a certain class or group, district representation is the most important type of representation in the US.

In order to understand the manifestations of representation in the contemporary congress it is useful to take a brief look at the past of this institution. Since its origins the behavior of the members of the US congress was oriented to attend the needs of their constituents to a degree that it is unheard of in any other legislature. In most countries, periodic elections that guarantee the rotation of legislators are considered enough to prove the representative character of the assembly. This is not the case of the United States where congressmen justify their position not only on electoral victories but also in going out of their way to serve their constituents.

\[21\] The fact that sometimes we perceive a lack of correspondence between the districts values and attitudes and the behavior of the representative, responds more to mistakes made by the congressmen when trying to measure the political temperature of his/her district, than to purposively trying to ignore the opinions of those who elected him.
To account for this uniqueness we must look closely at the early American congress. James Sterling Young in *The Washington Community: 1800-1828*,\(^{22}\) based on a historical analysis of the documents of the time, argues that the social structure existent in Washington DC between 1800 and 1818 gave greater sanction and encouragement to constituency oriented behavior than any institutional norms or organizational features of the modern congress. According to this argument, legislators in the early United States shared the cultural stereotype that power was evil and that to compensate this evil they should opt for a constituency-oriented behavior.

Unlike today’s permanent reelection seekers, the first legislators were amateurs who saw their service in Capitol Hill more as a duty than as a desirable career path. The new capital was isolated from their districts and the citizens of the states did not see Washington DC as a real decision making center. Lacking the self interest incentive, in the early years of congress, the representative behavior was motivated by a sense of moral obligation and a set of values upheld by the vast majority of members of congress. Congressmen utilized constituency oriented behavior as the main justification for the possession of power. It was only with time and the development of the legislature from an amateur to a professional status that real governing power and a role in the national government came to be part of the congressional agenda.

The tradition of constituency service continues in the congress of the United States two hundred years after its creation. However, unlike the early legislators motivated by moral duty, most contemporary scholars agree that modern legislators emphasize their role of constituency agents as a strategy for reelection. The literature illustrates two main

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types of manifestations of representative behavior. One in which legislators act as advocates of popular needs and wants in general. The other, also known as casework, refers to those interventions in favor of individuals or specific interest groups in a variety of activities such as immigration, selective service, social security and tax matters, particularly in the case of corporate entities.23

Nowadays electorates are motivated by self-interest and as a result they tend to prefer lawmakers who follow instructions rather than independent legislators who act according to their conscience. In a recent survey, 63% of those polled said that they wanted members of congress to stick closely to American public opinion particularly when making legislative decisions. Only 34% thinks that they should do what they think is best.24 Policy issues do not play a major role in electoral contests because politicians in Capitol Hill are always measuring and anticipating their district’s reactions so that they can adjust their positions in a manner that satisfies most voters at home.25

When analyzing representative behavior at district level the literature shows that legislators prefer to defer to their district’s opinion on economic matters that will affect their constituency. Thus, matters such as taxation or promotion of certain sectors of the local economy will always be analyzed giving preference to the needs of the district. Legislators see themselves as advocates who must give unqualified support to any initiative that may improve the economic standing of the district. One of the reasons for this support is that if they do not do it, no other legislator is likely to do so. Congressmen

see their districts as their responsibility. Other scholars emphasize the role of legislators in the division of the federal budget among the states: 1) exercising pressures on the relevant legislative committees and executive agencies for the construction of tangible and visible items such as roads and bridges for towns and cities in their district and trying to secure federal contracts for local suppliers; and, 2) supporting the actions of local units of government seeking federal funds for education, health, pollution control, job training and housing. The objective of the legislators’ behavior is to secure that the district gets a fair share of grants, governmental jobs, contracts and expenditures, among other benefits informally known as pork barrel.

Additionally, modern legislators in the United States try to create a personal relationship with individual constituents offering them access to their offices and intervening on their behalf in the pursuit of their personal goals. By staying in constant touch with the constituents and advancing their personal causes, legislators also try to generate in the individual voters feelings of trust. Legislators engage in this type of activities in the first place because they perceive that constituents want them to do so. Recent research shows that acting on behalf on the individual goals of the voters, also called constituency service, occupies a very significant amount of the resources allocated by the legislators in terms of time, staff and effort. Likewise, other studies focus on how members represent their constituents’ interests in interactions with the bureaucracy. Legislators provide information about their individual districts regarding the most urgent needs allowing more efficient prioritizing of the resources. In exchange for the

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26 Davidson and Oleszek.
information bureaucrats allocate the resources in a manner that improves the prestige and visibility of the representative and the ability of the agencies to maximize their budgets. Constituency service does not only favor the voters. In fact the main beneficiaries are the legislators themselves. Because constituency service provides a risk-free channel through which legislators obtain concrete electoral support, the amount of staff and resources devoted to casework has grown considerably and has become crucial in helping congressmen to enjoy increasingly safe electoral seats.

Constituency service provides congressmen with a powerful tool to secure their reelection without the help of their political party. If members are successful in identifying their constituents’ needs and in providing an acceptable degree of satisfaction, they will be able, should they desire, to withstand efforts by national leaders to control and coordinate their behavior. This high level of autonomy derived from being responsible of their personal electoral fate constitutes another of the particularities of American legislators. Building a personal network of support that allows individual legislators to secure their permanent reelection is not common in other democratic societies outside the United States.

As the previous pages illustrate, in the United States representation has become mainly a local, or district-based, issue and “although national tides form the backdrop against which congressional elections are fought, they are typically won or lost according to local issues, personalities and campaigning styles.” This does not mean that national

policy positions or behaving in a manner that is coherent with having strong personal conviction is completely irrelevant. However opinion surveys indicate that Americans judge their legislators less on policy positions than on how accessible they are, on their communication skills, on their capacity to solve voters’ problems and on their ability to “bring home the bacon” in the form of grants and federal aid. Furthermore, since American legislators have perfected the art of constituency service, they have been able to enjoy very secure seats. Since WWII, on average 92% of all incumbent representatives and 75% of incumbent senators running for reelection have returned to office. Unlike most countries in the world, in the United States it is fairly common to find representatives that have served their districts for one or two decades.

Finally, because of the district or “home” based nature of representation in the United States, it is useful to study how legislators behave when they are not in Washington DC. On this subject, Richard Fenno has devoted a great deal of time to identify different “home styles,” particular ways in which legislators reach their constituents. The core element of any home style is to develop feelings of trust among the voters. Fenno identifies three different areas in which legislators manifest their home style. The first one is presentation of self. Some legislators want to project an image of professionalism and efficiency in obtaining grants form the federal government, while others try to instill an image of a next-door-neighbor, easily approachable and with plenty of time to engage in local activities. A second aspect of home style is to be able to explain the job they do in Washington DC on behalf of the voters. In most cases legislators will increase their reputation by claiming to be different than the other

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legislators who are mostly interested in their own agendas and in courting special
interests\textsuperscript{33}. The third area of home style deals with the allocation of resources such staff,
local offices, contacts with the district media and most importantly the amount of
personal time that legislators invest in the district. For instance, in order to convey their
styles some legislators will prefer personal appearances, others will choose mailings and
personal conversations and finally others will communicate via radio or television spots.
The ultimate goal of every home style is to demonstrate the constituents that they are
what they claim to be and will do what they promise.

After reviewing the US congress literature it is time to discuss the ways in which
the Peruvian congress addresses issues of representation and legitimacy. Following
Dodd’s cycles of power theory, in this section I address the circumstances and structural
factors associated to the resurgence of institutional will in the Peruvian legislature
culminating in the substitution of the Fujimori regime.

Like in the United States representation in Peru rests on the realization of free and
fair congressional elections. However the relationship between legislators and the people
is a lot less developed because of the lack of tradition of district voting, low levels of
congressional reelection, limited resources and above all, the overbearing presence of a
powerful Executive. And yet, at another level, the issue of representation is central to
Peru’s legislature and to the role it has played in the return to democracy. However
imperfectly Peru’s congress actually represents its people, it is widely acknowledged that
the congress is and was a representation of the popular will. As the Fujimori executive

\textsuperscript{33}This behavior helps to explain the paradox that most Americans have a very low
opinion of congress as an institution but at the same time show a high regard for their
district’s congressperson.
moved further and further outside the bounds of the law, the representative and elected nature of the congress became more and more important for Peru and for the legislators themselves. Ultimately it gave them legitimacy to assume a leadership role. That legitimacy became the only real mandate that any governing body in Peru had and became crucial as the legitimacy and the mandate of the executive declined and then completely disappeared.

In this section I will address a variety of key questions about the legislature of Peru in 2000:

Had Peruvian legislators developed a history of doing things for constituents or groups, that built some loyalty to them and the Congress, so that, in crisis, citizens and groups would stand by the legislature because they wanted it and its members to continue to do 'good things' it had done in the past?

Had legislators developed styles of campaigning and relating to the public that made them well-known, popular, individuals that had some real following?

Had the legislature itself some past history of responding to the important needs of the country so that there would be a remembrance of what a 'good legislature', if it could be revived, could do?

Had the legislature stood up to imperialist presidents in the past, in response to popular outcries and pressures, so that there was some sense among citizens that the legislature, even with some/many members beholden to Montesinos and Fujimori, might once again be an instrument of popular action and executive control, if they pressured it?.


For starters, it is important to clarify certain institutional differences between Peru and the United States. Although the republican system inaugurated in Peru in the 1820s was directly inspired on the United States constitution, nowadays in Peru the branches of government are not completely separated like in North America. Since the 1978 Constitution, in order to avoid the deadlock and instability caused by divided government, Peru has institutional incentives to favor cooperation between the executive and the legislature.\(^{34}\) Thus, congress can censure ministers and issue a vote of no confidence that forces the replacement of the cabinet and the president can disband the congress if three cabinets are censured. Another difference with the United States is the figure of the Prime Minister who is appointed by the president and is in charge of the cabinet and conducting the day-to-day affairs of government.\(^{35}\) Finally, with respect to the electoral system, proportional representation rules are utilized to select the one hundred twenty congressmen. During the Fujimori regime the whole country was one single electoral district. The electors received a ballot and they could select two congressmen out of the list provided by the party of their choice.

A second point to clarify is that even though the questions posed above will receive a positive answer in this chapter, the reader must be aware that throughout most of its republican history Peru has had problems to maintain a democracy for more than short periods of time. Peru’s political history has been dominated by a strongmen tradition

\(^{34}\) McCoy, Terry. 1971. His essay in Agor, Weston H., Ed. 1971. *Latin American Legislatures: Their Role and Influence; Analyses for Nine Countries*. New York, Praeger; is one of the few existing analyses of the Peruvian legislature illustrates how during the Belaunde administration, 1962-1968, a legislature controlled by the opposition was able to block structural reforms promoted by the executive and censored more than a dozen ministers forcing the government to constant cabinet reshufflings.

\(^{35}\) In practice the Prime Minister has always been subordinated to the President who can remove him/her whenever the president deems it necessary.
including military officers, juntas and authoritarian civilian presidents. Enrique Bernales, a renowned Peruvian social scientist summarizes the history of congress during the twentieth century in the following paragraph:

Since its creation the Peruvian congress has been affected by intermittent crises of representation that limited its ability to acquire institutional autonomy. This situation is reflected on low levels of legitimacy among the population. The crises of congress during the twentieth century have been a constant of Peruvian politics: It was in crisis during the eleven years of the Leguia administration (in the 1920s). Quarrels and fights dominated the Constitutional Congress of 1931 until it was closed down in 1936. For a period until 1940 there was no congress. Then, the congress inaugurated in 1945 was closed by a coup in 1948. During the following two years there was no congress and between 1950 and 1962 the performance of parliament was for the most part dull except for a few isolated interventions by brilliant individual legislators. In 1962 another coup installed a junta that replaced the legislature. The congress between 1966 and 1968 was also troubled and disorderly. Then there were no parliaments until 1980 and the congresses since then have not been able to gain the trust of the citizenry.³⁶

As I mentioned in the previous section the crisis of congressional representation reached its highest level after the election of Fujimori in 1990. He blamed congress for all the problems ailing Peru and in April, 1992, he closed it down with the support of the majority of the population.³⁷ In 1993 a congress controlled by the supporters of Fujimori and reduced in size and faculties was reopened. The same legislature, seven years later would help to put an end to the Fujimori regime, and at the time this dissertation is being written, it has gathered more political power than ever in Peruvian history. I argue that the best way to understand this radical change of destiny is by looking to the process of consolidation of institutional will. It is only when legislators start thinking like a team that they can check those imperialist tendencies in the Executive. The way to understand the situation of Peru is first to centralize the role of institutions the way Samuel

Huntington does and then to look at the quest for power and self-interest using the argument developed by Dodd.

To address the questions posed at the beginning of the section I draw on interviews to congressmen, staff members, media reports and most importantly my own experience as a congressional aide in Peru from 1990 to 1992 and from 1996 to 1998. The following paragraphs describe the relationships between the legislators and the people mainly during the 1990s.

There is a long tradition in Peru of congressmen doing favors for their constituents in exchange for votes and participation in rallies and campaign activities. Just like in the United States, citizens procure the help of congressmen when they have problems with a sector of the bureaucracy, particularly social security, selective service and the police or when they want to obtain a government job. People are aware that a phone call or a business card of a congressman, especially one from the party in power, gives them a unique chance of having their claims heard by the authorities.

Legislators also work as advocates for different areas of the country, lobbying the president and ministers to obtain appropriations of funds for the areas where their votes come from. In a poor country where every small district is lacking for hospitals, schools, housing projects, law enforcement facilities, roads, bridges and social development programs, among others, legislators play a crucial role contacting ministers and presidential aides in order to request attention to certain areas of the country.

A great deal of effort is invested in the formalization of towns, district and provinces that want to become administratively autonomous from some far away capital. Peru is a large country with a very challenging geography and to have a seat of
government close to home is a luxury that not many can have. Delegations from new towns and communities throughout the country visit congressmen every day to try obtain their support for the creation of new administrative units and they offer their votes in exchange.

Certain elements unique to the Peruvian system make district representation particularly difficult. As in most Latin American nations the political power is concentrated in the capital, Lima, where a third of the population lives. Traditionally Peru had a multiple district system that allowed representation for every area of the country, however since 1993 congress was elected under Single District rules. This produced a very asymmetrical representation between Lima and the rest of the country. As a logical strategy to maximize resources congressmen concentrated their efforts in Lima and a few other large cities leaving whole sections of the country without effective representation. This tended to reinforce the image of a congress that is distant from the people, particularly in the provinces.

Despite this structural obstacle legislators and the people searched for ways to form a connection. For instance a legislator who was born in San Martin (in the central Amazon region) became the natural contact for anybody from the Amazon region of the country (60% of the national territory), even though she had moved to Lima twenty years ago. Likewise a legislator who held the position of mayor of a small town in the past became the natural representative for those claiming for help for small communities. Likewise, because Lima’s explosive growth took place only a generation ago two out of

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38 Approximately 8 million people live in Metropolitan Lima.
every three Limenians were born outside Lima, and both legislators and constituents utilized those provincial connections to establish mutually benefiting bonds.

Finally interest groups also see in congress an important source of political power and lobby hard to have their opinions heard particularly at the committee level. Interest groups such as banking associations, private school advocates and small business associations, among others, know that the weekly sessions of the committees give them the opportunity to support or criticize the laws that will affect their economic interests. The committee sessions are open to the public and the media and even in the midst of the authoritarian Fujimori administration it was possible for these groups to have access to the committee chairman and to other sympathetic members of the committee. A sign of the importance of the committee system is that during the 1990s many executive agencies and the most important interest groups had permanently appointed “parliamentary liaisons” or lobbyists, who attended the sessions of the committees and tried to create a personal relationship with the staff. For instance, the ministry of economy, the office of the prime minister, the internal revenue services, the national comptroller’s office, the bureau of banking and insurance, the chamber of commerce, the banking association and the national confederation of business, among others, had appointed people who followed very closely the work of congress.

A final point about constituency service is that the Fujimori years were good for the legislature in terms of budget and administrative reorganization. All the offices were renewed and since the number of congressmen was reduced each legislator was assigned a very comfortable office where they could receive the voters. There were also important technological advances: archaic phone lines were replace by digital centrals with multiple
lines for each office, every office received several state of the art personal computers connected to the internet, all Floor sessions and the most important committee sessions were broadcasted via cable, and the Administration Office implemented a centralized system to facilitate the access of constituents to the offices of the legislators.

Despite the limitations imposed by an overbearing Executive and an inadequate electoral system, congress was able to develop a reputation as an institution with power where things could get done. An institution approachable by the common citizen where a helpful staff would listen to his/her complains and would try to address them or at least provide valuable information.

Regarding the development of a “home style,” a particular way in which congressmen conduct their campaigns and relate to the public, the Peruvian case provides also an affirmative answer. Despite the lack of a district properly speaking, legislators knew in which areas of the country or of Lima their votes came from and they could refer to these geographic areas as their home. Just as in Fenno’s study, some legislators are hand-shakers and like to appear very approachable while others want to promote an image of efficient administrators and able professionals. A home style unique to Peru would be the “President’s Unconditional Friend,” someone who can make things happen because of his contacts with the all-powerful executive. Many Cambio-90 legislators found this home style to be the most fruitful in terms of electoral results. It had the double benefit of securing their position in the party and by offering absolute loyalty to Fujimori being able to deliver actual goods and services to his/her electors. In the Peruvian

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39 The electors can choose two congressmen from the list provided by the party of their choice. The preferential votes are recorded by the Electoral Board and are open to the public.
congress of the 1990s a legislator serving his own interest by having clientelistic ties to
the Executive was typical. Even congressmen from other parties, supposedly
independent, engaged in this type of behavior. The consequences of this style were
terrible in terms of the democratic quality of the regime. The President’s Unconditional
Friends passed openly unconstitutional legislation that affected greatly the powers of the
institution and the legitimacy in the eyes of the population.

Fortunately, another group of congressmen, mainly from the opposition parties
developed a counterbalancing home style that I will call the “Champion of Democracy”.
Until the late 1990s, the legislators belonging to the parties of the opposition had
assumed a passive attitude regarding the Fujimori administration. They were impressed
with the accomplishment of the regime in terms of pacification and economic recovery.
Likewise, the reforms of the state seemed to be fostering a new age of prosperity for Peru
and the population had supported the regime by giving Fujimori once again a majority of
the seats in the 1995 general election. However, around 1997 the economic recovery
slowed down significantly at the same time that the authoritarian aspects of the regime
were emphasized. The turning point took place when congress passed the law approving
Fujimori’s re-reelection and dismissed the members of the Constitutional Court who gave
a contrary opinion. The next day the largest popular manifestation since Fujimori’
election in 1990 converged in front of congress’ main building. Thousands of college
students protested against this overt violation of the Constitution. The rally was
spontaneous and led by college students themselves but it sent a signal to the opposition
leaders: it was time to act.
Congressmen from the traditional parties such as APRA, Acción Popular, Partido Popular Cristiano, Unión Nacional, Frente Moralizador, and from the Left began an active campaign to inform the population and reveal the corruption within the regime. Congressmen like Olivera, Townsend, Del Castillo, Peace and many others that will appear in the narrative of the next chapters utilized different styles and targeted different audiences to convey the same message: Fujimori was a dictator and he had to go. It is fair to say that this change in attitude was met by cynicism by sectors of the population who had lost any hope in congress. College students wanted to be independent from any party manipulation, people in the provinces did not trust congressmen who had abandoned them for years and preferred to organize their own Regional Fronts and in Lima, the mobilization against Fujimori was mostly spontaneous, around civil society organizations and non-partisan NGOs. The political class had to work hard to recover the legitimacy they had lost.

The legislators of the opposition worked hard to regain a certain degree of legitimacy and sometimes their efforts seemed futile. In the external front multiple congressional delegations traveled abroad to obtain support in Washington DC from the government of the United States and from the Organization of American States. Other legislators sued the regime at the Interamerican Court of Justice in Costa Rica and obtained favorable sentences. Legislators rapidly found out that would be much more difficult to be successful at home than abroad. Fujimori, backed up by Montesinos’ enormous apparatus of corruption and his disciplined congressional delegation, was a formidable opponent. Furthermore Fujimori had a reservoir of legitimacy accumulated through ten years of assertive leadership of the country and an image of invincible leader
that congressmen, in its selfish pursuit of personal security, had contributed to create. But many legislators did stand up to Fujimori, they resisted the attacks of the media manipulated by the government (by the year 2000 only two newspapers and a small cable station were free) and managed to stay out of jail despite all the bogus legal suits filed by the government and handled by the judges on Montesinos’ payroll.

Part of their new style included giving up some of their personal ambitions and playing as a team, joining forces with the other parties in the opposition and trying to establish contacts with the less radical members of the government. When the 2000 general elections took place, the parties of the opposition around the candidacy of Alejandro Toledo had developed enough prestige and legitimacy to convince half of the population to reject another term with Fujimori at the helm of the nation. Although Fujimori was able to win the presidency in a seriously flawed election, the parties of the opposition obtained the majority of the seats in parliament. The hope for change was in the air. Unfortunately two months after the inauguration of congress, Fujimori’s party recovered the majority when inexplicably eighteen legislators switched their allegiance and betrayed the popular vote.\footnote{The media baptized them as transfugas (turn coats). Later it was revealed that they exchanged their allegiance seduced by bribery, blackmailing and other kinds of pressures emanating from the Fujimori administration.}

Despite this serious setback, that helps to explain why the legislature needed the initial help of the international community to start up the process of transition, the previous pages provide enough proof that Peru’s congress was an authentically representative assembly that had sufficient support from citizens and groups in Peru, and
that the nation would call on that assembly to act in this crisis, rather than on the judiciary, an independent commission, or an international guardian.

The last two questions posed at the beginning of this section require a more historical analysis of the legislature in order to identify past experiences in which it responded to the important needs of the country and events in which the legislature had stood up to imperialist presidents in response to popular outcries and pressures. These questions are relevant because in order to argue that the legislature was able to recover its representative character it is important to demonstrate that the population had certain memory or at least an idealized image of a legislature that played a positive role in the past and that could become the foundation for the reconstruction of democracy after the exit of Fujimori. This is not an easy given the social and political transformations that Peru has gone through during the last fifty years. For the most part of Peruvian history, the legislature was an institution constituted by members of the economic elite and responded exclusively to their interests. The political elites resisted popular participation and when it was imminent that a mass based party or reformist leaders could win the election, the armed forces would intervene and reestablish the status quo. It is only during the 1960s when mass based parties like APRA and Acción Popular were able to obtain a significant quota of power in the legislature. However the legislatures of the 1960s are remembered not for the efficiency and the advancement of social policies but instead for their obstructionism and ultimately are blamed for the arrival of the longest period of military rule from 1968 to 1980.

For these reasons, we must look for a good legislature in Peru’s most recent past. The Constitutional Assembly elected in 1978 with the explicit goal of writing a new
constitution and implementing the transition to democracy provides a remembrance of a congress that was authentically representative of the different ideologies and sections of the country. The elections for the assembly were characterized by their organization and fairness and for the first time included the vast majority of Peruvians (the literacy requisite was eliminated). The Assembly was presided by Haya de la Torre, founder of the APRA party and the most important politician in Peru’s contemporary history. The forces represented in congress were clearly differentiated in three ideological currents of almost equal size: The United Left, the centrist APRA and the right wing Popular Christian party. The representatives were for the most part experienced members of the political class, many of whom had suffered prosecution, expatriation and torture in the defense of their convictions. The Constitutional Assembly accomplished the difficult task of producing a Constitution that represented the consensus of these different political currents and that responded to the realities of a country that had been radically transformed by twelve years of military reformism. The Constitution of 1978 pushed for a model of development that gave the state a central role in the economy and that mandated the creation of a welfare state. Social rights such as the right to adequate housing, an affordable health system, free education as well as many conquests of the labor movements were consecrated in this document. The debates for the approval of the constitution captivated the attention of the nation and increased the hopes for a future of democracy and progress.

In 2000 Peruvians looked back at the 1978 Constitutional Assembly with nostalgia. The ten years of Fujimori had been also revolutionary years, at least in economic terms. The state-led model of development had been discarded and replaced by neoliberalism.
and free market policies and the Constitution of 1993 had rolled back many of the rights articulated by the Constitution of 1978. The promises of economic development after the structural adjustment remained for the most part unfulfilled and Peruvians were working harder, with less protective regulations and earning less than twenty years before. A signal of this positive memory is that one of the positions argued during the 2000 transition was to discard the 1993 constitution and return to the principles established by the constitution produced by Peru’s best legislature. Even now, while this dissertation is being written, congress is preparing a new constitution based on the 1978 document.

Finally, with regard to past instances in which the legislature stood up to imperialist presidents, the fact that most of the time the president’s party controlled the majority of congress reduced the chances of an open confrontation. However this does not mean that the congress was always a rubber-stamping partner. In multiple instances, the congressmen of the presidential party have lobbied effectively to modify essential aspects of the legislative initiatives sent by the executive. Any visitor to the offices of the congress will notice that every time the legislature is in session there are marches and manifestation in the streets by people requesting congressional intervention. The main reason why peasants, industrial workers, miners, teachers, nurses, college students, public employees and street sellers, among others, march and protest tirelessly is because they know the congress is responsive to their voices and that they have more chances of being heard by the legislators than by the Executive.

A very concrete example of congressional input was the creation of tax-exempt zones in the Amazon region. These special regimes were created in 1980 to promote the economic growth of some of the least developed areas of Peru and responded to popular
claims of the citizens of those provinces. When Fujimori took over power in 1990 and implemented the structural adjustment program one of the main objectives was the elimination of all subsidies and tax benefits. The population of the Amazon region protested and sought the help of their congressmen who spoke of their behalf and warned sternly the president and his ministers of the consequences of eliminating the regime. Another circumstance, much more dramatic, in which congress decided to say no to the executive took place in 1992 when Fujimori issued decrees related to the war against Shining Path containing obvious violations to the Constitution. Congress, acting within its prerogatives, reviewed the decrees and rejected them. This exercise of legitimate congressional power was the excuse utilized by Fujimori to justify his self-coup. In summary the population of Peru was well aware that congress had enough jurisdictional power and a tradition of siding with them when the exercised enough pressure and let them know their disagreement with controversial measures advanced by the Executive.

Before concluding this chapter I will devote a few paragraphs to argue that having a unicameral congress facilitated the actions of the legislators in their struggle to free themselves and the country from Fujimori’s authoritarian hold.

The most important change to the legislature in the 1993 Constitution was the elimination of the Senate. In the opinion of most Peruvian analysts this constituted an attack to the essence of Peruvian democracy. Peru had had a bicameral congress for almost one hundred and eighty years\textsuperscript{41} and the only reason for the change was to facilitate its control by Fujimori. Given its ahistorical and undemocratic origins, the unicameral congress would not constitute an effective tool to check and balance the power of the

\textsuperscript{41}With a few short lived exceptions during the first decades of Peru’s republican life in the XIX century.
Executive. Without a senate, Peru lost an instance of revision that helped to improve the quality of the legislation and opened the door for the approval of “leyes sorpresa” (Sp. Surprise Laws).\textsuperscript{42}

The United States congress literature provides great help to understand the consequences of unicameralism and bicameralism. Bicameral legislatures were the norm during the eighteenth century. The Founding Fathers had been educated in a culture that idealized the British system and the political theory of the time taught the framers that the protection of liberty required that the interests of the few and those of the many needed to be balanced. Thus the primary purpose of the Senate was to check the excesses of the more democratic chamber, the House. The delegates did not see bicameralism as a way of providing a double debate, a more pensive chamber for the improvement of the quality of legislation. In fact they were concerned about the troubling behavior of the popularly elected legislatures of the states of the nascent republic. Some of these assemblies were approving laws that favored debtors, redistributive policies and the abrogation of property rights. The delegates to the Constitutional Convention wanted to create an organism that slowed down the popular voice and they did it. In the United States the fact that each state was given the same number of senators despite huge population differences created the worst mal apportioned legislature of the world.\textsuperscript{43} The nations of Latin America who gained their independence in the first decades of the nineteenth century adopted the

\textsuperscript{42}This was the name used for laws that were submitted by the Executive and were approved immediately, with minimum debate, and transformed essential aspects of Peruvian legislation.
republican model established by the United States and copied many of its institutions
with the same deliberate intention of reducing the popular voice.

Two hundred years later the consensus about the convenience of a second chamber
has changed greatly. In 2000 112 of the world’s 178 parliaments (63%) had only one
chamber. Particularly since World War II many countries, including consolidated
democracies such as New Zealand and Sweden and Latin American nations like
Argentina and Nicaragua, have changed their constitutional design eliminating the upper
chamber. In the twentieth century new democracies are less afraid of democracy and have
tended not to bother with the Senate. Scholars and politicians who favor unicameral
legislatures put the highest value on the democratic characteristics of the lower house
whose decisions should not be blocked by a second chamber. The Senate is always more
conservative more elitist, more business prone and it muffles the popular voice whereas
with a single chamber you have a fist, a people’s fist that can blow the Executive out of
the water if it violates the constitution, and that is exactly what happened in Peru.

The irony is that by eliminating the senate Fujimori thought it would be easier to
control the legislative and oversight functions of the assembly. What he really
accomplished was making congress more able to get rid of him, more powerful and it did.
If there had been a second chamber in Peru it would have discussed and debated
endlessly. The experience of the United States shows that the senate is always theoretical
and pensive and debate prone, and senators are much more conservative and slow to
reach a decision. If Peru had had a Senate is not clear that the congress could have been
so effective.
If Fujimori had read Political Science or History he would have never eliminated the senate. Scholars in the new institutionalist framework understand the importance of history to understand politics. Political actors create institutions within a particular context including values, social aspects and ideology. They do it in order to solve a particular problem they are confronting. In 1992 Fujimori wanted a congress more efficient in producing the legislation needed to implement government policies and he counted on a disciplined majority to follow his directions. In order to craft the new legislature he used the remains of the previous bicameral congress maintaining most of its faculties, as it is often done in every constitutional amendment. However, once the original problem was addressed, the unicameral congress remained in place and will “define the framework within which politics will take place.”

Experience teaches that the many ways a political framework will influence posterior events are largely unanticipated by those who created them in the first place. Understood in this way, institutions “not only have histories, they make history.”

Fujimori was not aware that he was playing a very dangerous game when he thought that he could create a single chamber congress and control it by bribery. If he had read what the North American founding fathers said, “One man will never live forever”, he would have realized, first, that sooner or later he was going to die and nobody would guarantee the survival of his policies. Second, that the founding fathers decided to institutionalize the checks on the majority and make the Senate to prevent the possibility that this man or woman who was supposed to subjugate congress was not powerful

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45 Lee, F., and B. Oppenheimer, op cit.
enough, or as powerful as he thought, because of the mortality of the humans and the fallibility of the person. People die or loose power, institutions tend to last. Fujimori was very shortsighted as most dictators often are, and thought that he would never loose control, but that is exactly what happened. When he lost control he had created a much more powerful weapon and in many ways Fujimori set up his own demise. The United States congressional literature teaches clearly that by eliminating the Senate the voice of the people becomes stronger and thus in Peru in 2000, when the time of removing the President came, there were no institutional breaks to stop this from happening. Fujimori was removed from office and declared morally unfit by a single, simple, voting of his custom-made unicameral legislature.

**Conclusion**

The objective of this chapter that introduces the Peruvian congress within the framework of the literature on the Congress of the United States, has been to present an argument that accounts for what happens in the empirical chapters of the dissertation:

1) In the first section I answered the question of why the legislature is important, with enough real history and stability to be an object of national attention amidst crisis. The answer is that despite its lack of autonomy and the bribes of Montesinos, by 2000 Peru had a parliament that was reasonably institutionalized and well-structured;

2) The second section explains why an institutionalized legislature could find itself in such a predicament. The answer is constructed around Dodd’s cycles of power theory, and the need to sustain indispensability and legitimacy by reasserting power and acting. First legislators involved in their own quest for power failed to act in the face of mounting challenges such as terrorist threats and hyperinflation, lost legitimacy and left the field open for Fujimori’s ultimate assault in 1992. After that, the legislators tried to
serve their own interest by having clientelistic ties to the Executive, giving up decision-making faculties and the ability to oversee the executive.

3) Finally, the third section addresses the question of why the legislature could sustain enough legitimacy during the crisis so as to be able to reassert itself and act. The answer is directly related to its representative character, and some past history of reasonable action as a representative assembly, thereby demonstrating its value and legitimacy to the nation, the people, and to their constituents in particular.

Now that I have introduced the theoretical framework that explains the motivations of the legislators and the consequences of their behavior on the role that congress plays in national politics, it is time to relive in detail the events that took place in Peru between September and November of 2000. Thus, the following chapters introduce us to a legislature that has finally woken up and realized that unless it takes some concrete measures it runs the risk of vanishing completely. The personal ambitions of members of congress will have to take second place to the welfare of the institution. The costs will be very high because most congressmen will lose their seats and maybe even their political careers. However those who are able to connect with the electorate and to offer a response to the national crisis will develop, in a relative short time, the degree of legitimacy necessary to provide the leading voices of the transition and more importantly, will enhance their individual chances to success in their individual careers as legislators.

This theory provides a new way to look a Peruvian politics that goes beyond the traditional arguments that blame the lack of democratic consolidation on Latin America’s authoritarian culture, the disadvantages of presidential regimes, the structural problems associated to poverty and inequality and the lack of social commitment of the political
class, among others. Instead, Dodd’s theory provides a novel approach to understand why congress has traditionally played a minor role in Peruvian politics and what happens when it tries to reassert its power. Focusing on the goals of congressmen and in their quest for power is also empowering because it demonstrate that there are no institutional impediments for a legislature to become the leading voice of a polity. This is particularly important for countries like Peru where given the multiple cleavages and the proliferation of parties and ideological positions, it is essential to foster mechanism that promote dialogue and consensus. The last twenty years of Peruvian history teach that having a legislature that behaves as a rubber stamp may appear convenient for a president who wants his policies passed and for legislators who expect attention to their requests for patronage in exchange for their loyalty. However, this kind of arrangement will not last because the president will try to increase his hold on the legislature until it only obeys his orders and when this happens a group of legislators will realize that either they modify their attitude and act according to the constitutional mandate or run the risk of being rendered irrelevant. In the case of Peru this signified democratic breakdown.

The behavior of the legislature during the transition, particularly at the late stages, and the ability shown by the congressional leaders to learn and attune their behavior in a manner responsive to public opinion gives me reason for hope. At this moment Peru is going through a period of divided government when the president’s party controls only about 30% of the seats, and as a result congress has the potential to play a meaningful role for the first time in many years. The last time there was divided government, the President ended up disbanding the congress. If this dissertation contributes to make the contemporary Peruvian legislators realize how important is to balance their quest for
power with an authentic commitment to generate a national project that cuts across party lines and jurisdictions, that will be enough reward for all the effort put in this work.
SECTION II
ANALYSIS OF THE 70 DAYS OF THE TRANSITION

This section is composed of four chapters that provide a detailed historical account of the events that took place between September and November of 2000. These chapters will show how the legislature recovered gradually the autonomy and legitimacy lost during the Fujimori administration and became the leading force for the transition to a more democratic regime.

Under Fujimori, Peru had developed during the 1990s system that was described as a Delegative Democracy.¹ In this type of regime elections take place periodically, there is a legislature and there are certain civil and political rights that are enjoyed by the population. However, there are also clear authoritarian patterns such as the obvious intention of the government to perpetuate itself indefinitely and the concentration of power in the hands of the president and intelligence agencies. The national election of 2000 gave Fujimori the presidency for the third time but the process had so many irregularities that the international observers left the country indicating that they could no guarantee the electoral results. Furthermore, even though the parties of the opposition were able to obtain more than half of the seats of the unicameral congress, at the moment of Fujimori’s third inauguration on July 2000, twelve congressmen of the opposition changed their allegiances to the government, raising doubts about the motivations behind their change of heart and giving Fujimori the power to control the legislature.

Because of all these irregularities it is possible to argue that Peru’s political system had exceeded the limits of Delegative Democracy and could be considered an authoritarian regime where certain democratic formalities still existed and where the government allowed a few media outlets of independent expression. Despite the differences with the authoritarian regimes of the 1970s, particularly the lack of a military president, there are enough similarities to justify the use of O’Donnell and Schmitter’s elements of analysis presented on chapter 1, at the beginning of the narrative when I present the actors and arenas of the transition. The actors will be introduced identifying the soft liners or moderates and those would tend to behave as hard line defenders of the continuation of the regime. As O’Donnell and Schmitter indicate, these characterizations at the beginning of the process of transition are problematic because of the uncertainties surrounding the transition. Thus, those who at the beginning assume a radical position can modify their standing by the middle of the process. Likewise, as the transition moves forward it becomes clear that those who maintain extremist positions, both in the government and in the opposition run the risk of being excluded and therefore there is an incentive for moderation. These changes will be presented in the following chapters.

The rest of the narrative is best understood by utilizing the lens provided by Dodd’s argument about the cycles of legislative power described in the previous chapter. The following chapters will introduce the reader to an institution that reforms itself in the midst of a terrible crisis. The final goal is to recover power and legitimacy by increasing the capacity of the legislature to coordinate a solution that ultimately will be supported by the majority of the population. The next four chapters organize the multitude of events taking place so that we can find within the apparent chaos and disorganization a thread
that explains why the transition was successful and how can we apply elsewhere the lessons learned.

The structure of the historical account included in this and the following chapters will follow a chronological format, presenting the events and the interplay among actors in the same sequence as they occurred in reality. The objective is to be able to present a strong case in which most events are considered instead of choosing those instances in which the role of congress is more evident and where it is easy to identify the end result of the negotiations. The wealth of details is very important to prove the centrality of the role of congress because only a step-by-step analysis will show how a congress with low levels of autonomy and legitimacy becomes the leading force to transform an authoritarian regime into a democracy.
CHAPTER 4
ACTORS, ARENAS AND ALTERNATIVES FOR THE SOLUTION OF THE CRISIS
SEPTEMBER 14 – OCTOBER 1

Introduction

This chapter contains a historical account of the first weeks of the transition that took place in Peru between September and November of 2000. This chapter begins by presenting the main actors of the transition including a brief historical introduction that provides the context to analyze the more recent events. Likewise, the two main arenas for political discussion, the Mesa de Dialogo sponsored by the Organization of American States (OAS) and congress, are presented within the historical context previous to the video.

The initial event of this chapter is the broadcasting of a video where presidential advisor Montesinos appears bribing a congressman of the opposition to join the ranks of the government. The bribing of C. Kouri gave a clear image of what congress represented for the government: on one hand an institution whose members could be bought, manipulated and coerced into obedience, on the other an institution that was too powerful and that if it recovered its autonomy, it could easily block the plans of Fujimori to stay in power indefinitely. The video showed the weakness of the legislature but also made obvious the fact that it was impossible for the Executive to govern without its support.

The main objective of this chapter is to show how since the initial days of the transition the legislature occupied center stage. This was not an accident or the most logical course of action; instead it was the result of the actions taken by important
legislators during the days that followed the broadcasting of the video. At the core of the chapter I will present the alternatives of solution advanced by different political actors. One of them, an extra-constitutional solution supported by a significant portion of the political class, advocated the creation of a transitory government and did not recognize any role for the legislature. The other alternative relied heavily on congressional action and required a level of coordination among the different political parties represented in the parliament with no precedent in Peruvian politics. This chapter shows how the legislature supported the latter path of action and the initial steps taken both by the P2000 and the parties of the opposition to speak with a single voice and provide leadership for a very confused polity.

The chapter also points out to issues of legitimacy such as citizen disrespect for the legislature and the dangers associated to this, as well as the legislators desire to gain the respect of the citizens. It will be shown how despite the fact that the main leaders of the government and the opposition had been elected to congress, the institution was not able to argue convincingly that it was the repository of popular representation. People saw the Post Fujimori congress as a disjointed organization conformed by groups craving for power in an environment of distrust. One of the main characteristics of this initial period is the inability of the legislators to reach collective decisions. The lack of communication among the political forces was so high that it will take all the effort of the congressional leaders to establish some basis for the dialogue.

**Actors of the Transition**

Before the video scandal very few people could even conceive the abrupt ending of the regime. Fujimori had secured for himself a third five-year mandate and had secured
enough seats in congress to maintain the status quo. The Organization of American States, had chosen not to imposing economic sanctions on the regime and restricted its involvement to the creation of Board of Dialogue that would oversee the gradual democratization of the regime. Fujimori had accepted the presence of the Board and appointed second rank officials as delegates. By August of 2000, it was business as usual for the Fujimori administration.

Regarding the main political players, besides President Fujimori, there are four sets of actors in this transition: 1) the congressmen from the government party--that by that time had been renamed Peru 2000--including several factions that will be introduced in the next paragraphs; 2) the leaders from the opposition parties, for the most part legislators, but also important political leaders such as presidential candidate Alejandro Toledo; 3) international actors, mainly from the United States and from the Organization of American States-OAS; and 4) the top brass of the armed forces under control of intelligence advisor Vladimiro Montesinos.

The ruling party had assumed a new name for the 2000 election: Peru 2000 (P2000). It was an alliance that at the beginning of the period under study was made up of sixty-four congressmen, a small but comfortable majority in the 120-seat congress. Within the alliance there were different factions or bancadas that are important to identify because each one of them will play different roles during the transition: Two of the subgroups were formal factions, with independent registration at the National Board of Elections, and the other two were informal factions: 1) Cambio-90/Nueva Mayoria: (Sp.: Change 90/New Majority) constituted by a core of seasoned congressmen who had been in office since 1992. These congressmen were experienced in the political game,
had reaped the benefits of absolute majority and control of congress during the previous eight years and were very acquainted with the functioning of the institution. 2) **Vamos Vecino:** (Sp.: Let’s go neighbor) formed in the late 1990s, as a government sponsored organization mostly involved in local elections. This faction was the largest group of the government alliance. Its leader, c Abson Vasquez, had played important roles at different times during the Fujimori administration as minister and as Fujimori’s informal link with grass root organizations in the interior of the country. The members of the faction were also known as “the provincials” because *Vamos Vecino* included many congressmen who had been elected with the support of the provinces or regional groups. They presented themselves as an alternative to the more elitist and Lima-based C-90/NM faction. 3) **The Trans fugas,** (Sp.: Turncoats) was a despising name that the media utilized to name a group of twelve legislators who were elected for parties of the opposition but changed their allegiance to P2000 raising doubts about the motivations behind this change. The trans fugas made possible for P2000 to obtain the majority of seats and the absolute control of congress. Finally, 4) **The SIN Faction:** in reference to the National Intelligence Service (SIN). These legislators were also known as the *Montesinistas* because of their allegiance to Montesinos. Media reports made constant reference to this faction and several congressmen were named as members of this group but it is not clear even now which congressmen really integrated this faction and had a close relationship with the feared intelligence advisor. Part of their mode of operation was precisely to behave in such a way that they would be undetected and undistinguished from the other members of the alliance. Consequently these congressmen at the same time belonged to one of the three previous groups.
The main riff within the alliance was between Cambio-90/Nueva Mayoria (C-90/NM) and Vamos Vecino (VV) the two officially recognized factions. There were constant accusations between the leadership of both factions. The accusations were an excuse to hide the power struggles between the leaders of the two factions. The leaders of C-90/NM resented the fact that Vamos Vecino wanted to obtain the leadership of congress. They felt particularly threatened by C.Vasquez’s ambitions of becoming Speaker of congress. On the other hand, the legislators of Vamos Vecino felt that their group was representative of a much larger section of voters than C-90/NM and therefore they had a natural right to take over the direction of congress. In the weeks previous to the diffusion of the videotape the conflict escalated. C. Vasquez refused to participate in the sessions of the Directive Council of congress (where all the leaders of the different parties get together to plan the agenda of the sessions). The motive for this decision was the accusation raised by C.Luz Salgado from C-90/NM against C.Vasquez for the alleged falsification of one million signatures discovered by an independent newspaper before the 2000 election. The tension between the factions was so high that C. Vasquez announced that Vamos Vecino would participate in the next municipals elections with an independent list separated from the other factions of the alliance.

At this point it was difficult to decide which one of the factions could be characterized as soft liners or hard liners. Despite the internal problems it looked as if they could be solved with the intervention of president Fujimori. The factions of the alliance knew that the crucial issue was to maintain the control of congress in the hands of P2000. However, the events unleashed by the video-scandal will transform dramatically this scenario and Vamos Vecino and the Transfugas will start searching for
possible coalition partners, behaving in a manner that O’Donnell and Schmitter ascribe to the soft liners. At the same time, C-90/NM will harden its position and will avoid making any concessions to the opposition. Interestingly, the positions will shift again in the following weeks with C-90/NM assuming a more negotiating approach. This constant shifting of strategies and positions is one if the characteristics of the uncertainty that O’Donnell and Schmitter associate to transitions.

With regard to the opposition, defeated presidential candidate Alejandro Toledo from Peru Posible party (Sp.: Peru Possible) had assumed the de facto leadership of the opposition in the streets. The pro-government media except to brand them as a radical and destabilizing strategy did not cover the rallies and marches organized by Toledo throughout the country. Toledo, after showing during the final weeks of the electoral campaign his determination to fight Fujimori at any cost had obtained widespread support among a large sector of the population. Meanwhile, other leaders of the opposition, congressmen for the most part, continued denouncing the authoritarianism of the regime but were not able to implement a common front. Among the leaders of the opposition it is important to introduce C.Olivera from the Frente Independiente Moralizador – FIM (Sp. Independent Moral Front), the second largest opposition group in congress; C.Del Castillo, from center left APRA party, the oldest Peruvian political party and c Paniagua, from center right Accion Popular (Sp. Popular Action). These legislators will play important roles during the transition and are responsible for the success of the negotiations at the OAS’s Mesa de Dialogo and in congress. Other groups that conformed the opposition were Somos Peru (We are Peru) led by Lima’s mayor Andrade and Solidaridad y Democracia under the leadership of ex Social Security tsar Castaneda.
Even though the opposition also included non-governmental organizations, regional movements and other civic organizations, eight political parties that had obtained parliamentary representation in the 2000 election constituted its core. These parties were, in order of number of seats: *Peru Posible, Frente Independiente Moralizador, Solucion Popular, Accion Popular/Union Por el Peru, Solidaridad y Democracia, APRA* and *Avancemos*. Immediately after the elections the sum of the seats of all these parties was sixty-six, in other words a clear majority of the one hundred twenty seats of the assembly.

Despite this initial numerical advantage, the opposition had not been able to conform a common front against Fujimori during the electoral campaign of 2000. There were deep rivalries among the leaders of the eight different parties that opposed the Fujimori administration. Only two of them, Accion Popular and APRA had existed for more than a decade. The other parties were relatively new and loose groupings of independent personalities who did not share a common ideology and were together only for electoral purposes. As it was mentioned in chapter two, one of the problems that affected the representative legitimacy of congress was the disrepute in which political parties have fallen during the democratic regimes of the 1980s. The ideological positions of the new parties were not clear for the population because they had not existed for enough time to allow the familiarization with the electorate. Several of these parties, including current president Toledo’s *Peru Posible* do not have a real ideology and are little more than vehicles for the election of their leader.

The Fujimori administration devoted great amount of resources to smear the parties and candidates of the opposition. The campaign of 2000 was characterized by insults and defamation against the candidates of the opposition, delivered by the media controlled by
the government. The open signal television broadcasters (non cable) and the majority of the newspapers devoted their headlines to destroy the reputations of the candidates that represented a real threat to the reelection of Fujimori. These campaigns of misinformation damaged tremendously the prestige of the political parties, especially because most of them were built around the personal prestige of their leaders. The traditional parties like APRA and Accion Popular were not the main targets of these attacks because of their longer histories and the loyalty of their core followers but also because their candidates did not represent any danger for the reelection of Fujimori.

Finally, the scandal of the *transfugas* (turncoats) who after being elected with the votes of the parties in the opposition were persuaded by the government party to shift their allegiance to Fujimori, only worsened the disrepute of these political parties among the population. Most importantly, because of the lost of the seats of the *transfugas* the opposition parties lost the majority necessary to control congress that they had obtained in the election. The turncoats belonged to almost every one of the parties of the opposition. It was a signal of the lack of cohesion and the lack of ethics of some the new representatives of the national congress.

The third set of actors included a series of international diplomats and foreign officials who were deeply committed to the restoration of democratic institutions in Peru. Among them, ambassador La Torre in charge of the OAS’s *Mesa de Dialogo*, United States’ ambassador Hamilton and OAS secretary general Gaviria, participated actively in a rather discreet but firm way encouraging the creation of consensus and dialogue. These functionaries, backed up by their organizations and governments played the role sometimes of arbiters but most of the time of friendly and neutral advisors whose main
purpose was to maintain the channels of communication between the government and the opposition open.

The leadership of the armed forces constituted another set of actors. They played an important role during the transition, particularly when they attempted to pressure the congress to approve a constitutional amnesty that would protect them from prosecution for illegal acts perpetrated during the Fujimori administration. The armed forces were the key partners in the *autogolpe*. They supported Fujimori because he put a high priority on defeating Shining Path an enemy that was threatening the military’s survival. Military officers were put in control of the police and the armed forces and enacted a coherent counter subversive strategy. By using decree powers Fujimori changed the laws and removed those judges who were not tough enough on the terrorists. The lack of a legislature also gave impunity for human rights violations. Even though some officers were uncomfortable with the interruption of the constitutional order, given a choice between the executive and the legislature, in 1992 the military backed Fujimori. Under the new constitution the president has the faculty to grant promotions for the top brass and this allowed Fujimori “to achieve a substantial degree of personal control of the military by coopting a loyal clique of senior officers.”¹ Despite the coincidences in their views about fighting subversion, the military as an institution was no more loyal to Fujimori than it had been to the previous regimes. Ultimately, as it will be shown in the next chapters their support was based on a calculus of institutional self-interest.

Throughout the Fujimori administration the armed forces had been one of the pillars of the regime guaranteeing order and stability in the country in ex-change for

autonomy and unaccountability to civilian authorities. At the beginning, the armed forces had constituted a solid group behind the leadership of the Chief of the Joint Command General, Nicolas Hermosa. His influence was so great that until 1997 he was recognized as one of the three most powerful men in Peru along with Fujimori and intelligence advisor Montesinos. However, Montesinos gradually replaced each one of the members of the top brass of the army, navy and the air forces with his relatives and friends and ultimately promoted the destitution of General Hermosa. By the time of the transition, the hierarchy of the armed forces responded to direct orders from Montesinos. An example of his position of influence was that Montesinos’ headquarters were inside the facilities of the Ministry of Defense known as the *Pentagonito* (Sp.: Little Pentagon).

In the course of the transition, the armed forces assumed the most intransigent position. They recurred to clearly unconstitutional maneuvers to try to include an amnesty in the agenda of the transition. Rumors of military coup and instability in the barracks were rampant during this period. In fact, as we will see, lower ranking officials implemented a small rebellion. However, contrary to the intention of the armed forces their intransigency ended up favoring the plight of those who appeared more moderate and whose behavior was more adequate to the semi democratic nature of the regime. The radicalization of the military also forced the congressmen of P2000 to make a clear stand: either they supported the basic democratic institutions and forced the armed forces into submission or they sided with the military and loose all remaining legitimacy in the face of the electorate. In the following chapters it will be apparent how the radicalization of the armed forces ultimately cornered P2000 and forced them to break with the military. Ironically, the stand adopted by the military helped to keep the transition moving.
Finally, president Fujimori, the traditional arbiter in the disputes among his advisors, ministers and congressmen, had been gradually losing power vis a vis intelligence advisor Montesinos. Clear signs of this reduction of Fujimori’s personal power were the fact that the leadership of the armed forces and a group of congressmen of P2000--The SIN faction--responded to direct orders of Montesinos. Despite the fact that Montesinos had become President Fujimori’s biggest liability in international relations, for instance the Clinton administration had repeatedly said that Montesinos’ power should not be tolerated any longer, Fujimori could not get rid of his advisor. Montesinos had gathered too much influence and his network of bribery and corruption was too extended to allow any independent action by the judiciary or any other branch of government. Montesinos was well aware of Fujimori’s discomfort and the weeks before the broadcasting of the video he was plotting with sectors of the Executive and the armed forces to implement a coup d’etat in case Fujimori decided to rescind his services.

**Arenas of the Transition**

Before the process of transition had been set in motion by the broadcasting of the video there were two main arenas in which the issue of democratization was being discussed, or at least presented by the opposition and blatantly ignored by the members of the government: congress and the OAS’s *Mesa de Dialogo*. Besides these two formal settings there was an informal arena that for simplification purposes will be denominated “the street.” The parties of the opposition, regional organizations and independent groups of civil society utilized the street to express their rejection for the Fujimori administration. There was a wide variety of manifestations of popular frustration and anger ranging from violent riots involving deaths and destruction of property to more
pacific and creative demonstrations such as “walls of shame”, the “washing of the flag”, banging pots and pans and marching in silence. The Peruvian Street was filled with these events every week of the transition and even if they are not mentioned all the time in the following historical account, they were always taking place. Public demonstrations had been occurring in Peru long before the transition started. The government had been successful in presenting them as isolated events organized by agitators that would not change the status quo. In the present analysis we consider that popular unrest and mobilization were key because they provided the fuel to keep the transition moving and put a premium on transparency and openness. Popular participation did not create an environment propitious for the types of pacts advanced by Karl and discussed on chapter 1.

With regard to the formal arenas, a new congress had been elected in 2000. As it was mentioned before, the government had lost the majority of seats in the election but it had recovered the control of the legislature by illegitimate means. In this early period, there were no proofs of the bribes and arrangements between Montesinos and the *transfugas* (turncoats), but the population and the leaders of the opposition assumed that their change of heart was not due to legitimate reasons.\(^2\) With its newly obtained majority, P2000 elected a new leadership of congress composed only by members of this party, and proceeded to elect chairs for the twenty four standing committees.\(^3\) Once again, the appointments were conferred only to members of P2000. The control of all

\(^2\) At the moment of swearing in the new legislators, one of the transfugas made a mistake and instead of taking an oath for God and the Motherland, he did it for “God and the Money.”

\(^3\) In Peru the legislature is led by the Speaker (Sp. Presidente) and three Vice Presidents that replace her in case of absence.
positions of leadership by P2000 had been the rule since 1992, and in 2000, it looked as if things were going to remain the same, despite the electoral defeat. The legislators of the opposition manifested their rejection to this authoritarian way of selecting the leadership of congress but since the statute does not force the majority to share the power proportionally with the other parties, they could not implement an effective challenge against P2000. As a result, despite the good intentions of the new legislators, the route to democracy via congress at this point appeared irremediably blocked.

The second arena was the *Mesa de Dialogo*, an initiative of the Organization of American States to constitute a temporary forum for dialogue. After Fujimori won the second round of elections in 2000, and because of the irregularities of the process, the OAS called a special meeting that convened in June in Windsor, Ontario. The government of the United States invoked the application of OAS Resolution 1080 that would have imposed sanctions to the government of Peru. The Peruvian government, with the support of Brazil and Mexico defeated the American initiative and instead accepted the presence of an OAS mission in Peru to work out democratizing measures on an indefinite timetable. The realization of new elections or the removal of Fujimori were not among the items included in the twenty-one point agenda. Once the chief of the mission appointed by the OAS arrived to Lima the government appointed second rank delegates to the *Mesa de Dialogo*, in a clear signal of the secondary level of priority it represented. One of the original delegates from P2000 said in one of my interviews:

> When Fujimori appointed me, a junior legislator, in representation of the government at the *Mesa de Dialogo*, along with two other completely unknown individuals I realized that Fujimori did not give any importance to the Dialogue.

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Only later on he sent the heavy weights. On the other hand, ‘sharks’ like Del Castillo, Olivera and Dr. Paniagua represented the opposition. They were the leaders of their parties. Across the table it was just me and those two ‘Martians.’

The days previous to the broadcasting of the video the *Mesa de Dialogo* was deadlocked between two opposite and radical positions: the parties of the opposition pressing for the removal of Fujimori, and the government representatives unwilling to compromise and threatening to stop the dialogue. In the words of a P2000 delegate “before the video the *Mesa de Dialogo* was irrelevant, it gave some hope to the opposition but it was meaningless”. Thus, just as congress, the *Mesa de Dialogo* did not offer much in terms of democratizing prospects on a short or medium term. The *Mesa de Dialogo* also suffered of an additional problem that would become more important in the following weeks: democratic deficit, particularly when the representatives of the civil society were appointed without any type of popular consult.

**September 14: A Video Is Leaked to the Press**

**Montesinos:** ¿How much?, ¿How much? Here you have ten thousand (pulling from his left pocket an envelope filled with bank notes). You tell me! (Counting the bills ).

**Kouri:** No, let’s talk about twenty, fifteen...

**Montesinos:** O K.

**Kouri:** ¡Fifteen!

**Montesinos:** Here ten, plus five, fifteen (pulling another envelope full of cash from his right pocket).\(^5\)

Sometimes a unique event is all it takes for a radical change to occur in a society.

Sometimes it is a natural catastrophe like a hurricane or an earthquake. In the case of Peru, a situation that until the night of September 14\(^{th}\) of 2000 could have been described

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\(^5\) Excerpts from transcription of the video presented to the press. La Republica, Sept 15, 2000.
as tense but fairly stable developed into a chain of events whose final outcome could
have not been predicted by any of the actors involved. It was all the result of a process
that began when opposition congressman Fernando Olivera from the FIM party, called a
press conference and presented a video showing recently elected C.Kouri, from the
opposition party Peru Posible receiving money--fifteen thousand dollars--in exchange for
switching his allegiance to P2000. The population was able to watch on their television
screens when Montesinos pulled a wad of cash and gave it to C.Kouri, and how, speaking
as the real power holder of Peru, Montesinos used the first person to indicate that he
needed a clear majority in the legislature.

The bribing of C.Kouri gave also a clear image of what congress represented for
the government: on one hand an institution whose members could be bought,
manipulated and coerced into obedience, on the other an institution that was too powerful
and that if it recovered its autonomy, it could easily block the plans of Fujimori to stay in
power indefinitely. The video showed the weakness of the legislature but also made
obvious the fact that it was impossible for the Executive to govern without its support.
The rest of this dissertation will deal with trying to explain how this process was able to
provide Peru with a democratic government.

**Immediate Reactions to the Video**

When the news of the release of the video reached congress, the legislators of the
parties of the opposition stood up and began singing the national anthem as a signal of
protest. The members of the government suspended the session and abandoned the
session swiftly and without making any comments. The release of the video took all
political actors by surprise. There had been previous rumors about the existence of these videos but it had never been proven.

Fujimori’s first reaction to the video was to summon the legislators of his party to the government palace to try to calm them. He assured the members of P2000 that the government would be able to put a spin on the events and manage this crisis in the same way that many other denunciations had been previously handled. Fujimori instructed the congressmen of P2000 to support C.Kouri in this difficult trance. He characterized the situation as a setback that the government would be able to overcome.6 Later on that day there was a meeting at the Intelligence Services office with Montesinos A legislator present at that meeting told me: “Everyone attacked Kouri and nobody said anything to Montesinos. It was absurd behavior, schizoid.”

The first defection of a legislator of the government party took place in the course of this meeting. Before the 2000 election C.Cecilia Martinez had not been a member of any party but she was personally invited by Fujimori to become part of the P2000 alliance. She was the widow of an army officer killed by Shining Path in the late 1990s and had reached notoriety because her husband’s name had been used by a paramilitary organization, the Comando Rodrigo Franco, that executed alleged supporters of terrorist organizations. In the post video meeting she asked Fujimori to sanction Montesinos and C.Kouri. The behavior presented in the video was clearly corrupt and it was necessary to impose an exemplary sanction to those involved in the events. Fujimori ignored her

6My interviews produced two very different versions of this meeting. According to one of the versions, Fujimori told the P2000 legislators to act according to their conscience regarding the accusations derived from the video. I chose the version in which Fujimori asks the legislators to support Kuori and avoid the investigation because it explains the behavior of the P2000 legislators in the following days. Furthermore, it is the same version that weekly political analysis magazine Caretas published.
request and in response to this negative, she resigned from the alliance a few days later becoming the first casualty of the until then invincible P2000.

C. Martinez: I believe that I must resign; I do not belong here anymore
Fujimori: Do what you think is best madam.  

The leaders of the opposition parties, particularly C.Olivera, FIM, who had provided the video, mobilized all their contacts and resources to multiply the impact of the video. They formed political committees and began coordinating with each other in order to obtain support from the remaining independent press, from international observers, from the different groups active in the civil society and began organizing a big popular rally. For the first time in almost a decade the opposition parties were able to organize a solid front that put pressure on the government to capture Montesinos. Given the symbiotic relationship between Montesinos and Fujimori, the fall of the advisor would very likely signify the end of the Fujimori administration. International support arrived very promptly. Speakers from the White House and the Organization of American States issued communiqués qualifying the situation as very serious and requiring immediate attention

September 16: Fujimori’s Announcement

Two days after the broadcast of the videotape, President Fujimori recovered the political initiative and announced that there would be new elections in one year and that he would not participate as a candidate. This decision came as a complete surprise to the

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7 Interview with ex-congresswoman Cecilia Martinez
members of P2000 who were not previously informed of the president’s intention. Apparently, Fujimori consulted this decision only with his closest family circle.

Even though Fujimori did not make any reference to the recently inaugurated congress, it was understood that reducing his term as president implied that all congressional terms would be reduced as well. The logic was that given the present circumstances it was necessary to get a fresh start providing the nation with a new set of political authorities. At first, the members of P2000, who had not been briefed about the president’s plan, did not want to make any declarations. Since they were used to receiving orders from the Executive, they were confused about what position to take. They did not know if the damage inflicted by the video was irreversible or if the new elections were just Fujimori’s strategy to maintain their hold on power. Shock is the best word to describe the mood of the legislators of the governmental alliance. The legislators were not psychologically prepared to this sudden change. The regime had proven its resilience throughout ten years in power and there was a significant sector of the electorate that still supported Fujimori. In the words of a P2000 legislator:

Before the video, the President used to summon all the legislators of the party to talk about his plans for the future. You could read between the lines of his discourse that he thought that he would stay in office for five years and even more. People who worked with him felt that their future was secured. To imagine a future without Fujimori was not possible, it did not fit in their brains, it was not real.

However, after a few days of disbelief, a gradual process of resignation and adaptation to the new political scenario started to take place within the ranks of P2000. The instructions coming from the Executive suddenly became less clear and frequent. Gradually the congressmen felt less committed to accept without questioning these instructions. After all, the president was reducing their mandate and the economic security offered by the prospect of five years in office was disappearing. Many
congressmen had invested substantial amounts of resources in their campaigns and now
the Executive was betraying them. There was also the perception that Montesinos’
influence in policymaking, his power to deliver favors and bribes and most importantly,
his capacity to sanction those who manifested dissent, were rapidly coming to an end. As
a result, the individual behavior of the legislators became more autonomous and
unpredictable. One of P2000 congressional leaders said:

Why would I feel ashamed about something I was not involved with? I did not
become wealthy. I did not provide public jobs for any of my relatives. I have six
sisters who are professional and none of them had a position in the government,
neither my husband. Now (Toledo’s administration) everyone hires their spouses
and relatives. I never did that. And then a feeling of rebellion came up. We got over
the initial shock and protected what needed to be defended.

Even though the release of the tight hold exercised by Fujimori and Montesinos on
congress allowed the apparition of numerous and distinct motivations and incentives
among the legislators, it is possible to identify certain general patterns in each one of the
factions of P2000 described in the previous section:

1) The C-90/NM faction included the most loyal followers of Fujimori. They
trusted his decisions and were willing to make all political sacrifices necessary to follow
the president’s wishes. Since they were particularly knowledgeable about congressional
procedure and they had designed the 1993 Constitution, they assumed a position of
adhering to the existing legal framework and the due process. They were completely
opposed to any kind of “salida politica” (political solution) to end the regime outside the
institutional norms established by the Constitution and the law. They knew that the
institutional framework provided more guarantees for their political survival than any ad-
hoc arrangement devised by their political enemies. In fact C-90/NM had a lot of prior
experience with adjusting and bending the legal framework and even the constitution to
further their political agenda. The most dramatic example was the law of “authentic interpretation” that established that the constitutional prohibition of a second reelection was not applicable to Fujimori. These skills would prove to be very useful throughout the transition.

2) *Vamos Vecino* was the latest addition to the alliance. Its leader C.Absalon Vasquez saw the crisis as an opportunity to enter into a pact with some of the parties of the opposition, constituting a new majority and assuming the leadership of congress and of the transition. At this point it was not clear which sector of the opposition would be more likely to enter into a coalition with *Vamos Vecino*. This faction had several important contributions to make to its potential partners, such as a new set of political leaders, most of whom were from the interior of the country, and whose presence represented a definitive separation with the *Fujimorista* elite formed by C-90/NM. Other important collective assets were its large numbers and the leadership skills of their leader, C.Vasquez. An important individual motivation of C.Vasquez was to avoid further questioning about his past involvement with Montesinos and in the recent scandal about the falsification of signatures during the previous presidential campaign. The questionings to C.Vasquez’ behavior had been coming mainly from the C-90/NM faction of the alliance and this had upset the relationships between the two main factions of P2000.

3) The *Bancada del SIN* under direct orders of Montesinos, whose existence as a group was officially denied by P2000, became even more secretive. Montesinos’ fall from grace through the portrayal of his illegal conduct on the videotape was a clear signal of bad times coming. In the following weeks some of its members resigned to the
Alliance and joined the ranks of the opposition, others became independent and others remained in P2000 until the end. The press nicknamed them as the *topos* (Sp.: moles) because of their evasive underground behavior. In the following months several congressmen will be accused by their colleagues of being part of this faction, specially when there was not an apparent explanation for their behavior.

4) The *Transfugas*, those who had changed their allegiance to the government, were confronted with generalized disdain. Even though the video only showed congressmen Kouri, the general assumption was that Montesinos had bought all of them.\(^8\) They came to represent the corruption of the institution and lost all credibility. The arguments that they had utilized to justify their change of allegiance such as “I am changing my allegiance because only the government’s party will be able to do anything for my constituents” or “the time for fighting and competing is over, now it is time to build and work and the government is more effective at that,” sounded as empty excuses for their lack of moral standing. Their behavior during the transition needs to be analyzed under the light of two main incentives: the need to maximize their collective strength in order to avoid becoming escape goats for the new ruling majority and the need to recover some of their public image. These congressmen had been campaigning for about a year and had convinced an important number of voters of their capacity and moral standing. All of a sudden they appeared to their constituents almost like delinquents. The

\(^8\) In the next couple of years, more information came to light including receipts and contracts of allegiance signed by the *transfugas* in the offices of Montesinos. Some of them accepted cash payments (c. Kouri). In other cases legal processes against them or their relatives were sealed and carpeted (c. Caceres). Finally, others seem to have been persuaded not by material incentives but by Montesinos’ megalomaniac discourse (c. Farah).
interviews with the *transfugas* showed that they were really concerned about
demonstrating that they were not criminals and that they were able to behave honestly.

**Extra Constitutional Solution vs. Constitutional Amendment Solution**

Immediately after the broadcasting of the video and Fujimori’s announcement that
the regime would end in the course of the following year, there was a profusion of
proposals respect to what to do next. These different opinions can be aggregated in two
main sets of recommendations. The first one that will be nominated the “extra
constitutional solution” contended that the recent events constituted a new situation that
had not been contemplated by the constitution and therefore it required an ad hoc solution
that should be designed by the ‘legitimate’ political actors. Most members of the
opposition parties advanced this position that recognized only a minimal role for the
representatives of the government. The argument flowed from the idea that Fujimori and
P2000 had lost all moral standing and legitimacy to continue ruling the country and
therefore it was the task of the opposition to design a new regime with a new president
that would restore democracy. The OAS’s *Mesa de Dialogo* provided the ideal setting to
build this strategy given the fact that the government had only limited representation and
the opposition parties and the representatives of the civil society could out vote the
government.

There were several problems with the logic of this argument, first of all that the
opposition parties had not been able to obtain the support of a solid majority of the
population. Almost half of the people had voted for Fujimori, only a few months before.
The scandal of the *transfugas* involving a dozen congressmen from the opposition had
damaged the prestige of the whole parliamentary representation. Even though the
opposition did win the majority of seats in congress, they lost this advantage in a very irregular manner. Furthermore, the careers of several of the leaders of the opposition had not been extent of scandals, corruption and changes of political allegiances. As a result, there was not a really legitimate leader and the idea of an extra constitutional solution to the crisis was very difficult to defend and mined with obstacles.

The other possible path was a “constitutional amendment” solution, argued initially by P2000, particularly by the members of the C-90/NM faction. The main argument was that the constitution and the laws provided a road map that could deliver a new regime and restore the democratic safeguards. This path implied that Fujimori would stay in office until the election of the new president and that the status quo in congress would remain the same. Likewise, it required a multiparty consensus to amend certain technical aspects of the constitution. This position was seen with skepticism by the parties of the opposition because it was hard to believe that after ten years of authoritarian rule, P2000 would become a force that favors change and democratic checks and balances. Notwithstanding, important leaders of the opposition, such as future interim president C. Paniagua from Accion Popular, manifested their support for this type of solution.

In the next section, the characteristics of the extra constitutional solution and of the constitutional amendment solution will be presented including many details reported in the media during the days following Fujimori’s announcement. This will provide a full picture of the political scenario at the beginning of the transition.

**September 16-17: The Opposition Parties Propose an Extra Constitutional Solution**

The opposition was euphoric to have inflicted a mortal wound on the government after so many failed attempts. The impact of the video on the population is hard to
overestimate. Until its broadcasting the opposition had not been able to produce any substantial proof of both the level of corruption and the influence in decision making of Montesinos. Despite a profusion of denunciations of wrongdoing and involvement in criminal actions presented by leaders of the opposition and the independent media since the beginning of the regime, Montesinos had been able to continue increasing his hold on power. He could count on strong defenders both in the Executive, starting with president Fujimori, and in congress, particularly C.Chavez, chair of the Defense Committee. Since the 2000 election he could add the support of his own faction within P2000 and the transfugas that he had persuaded to join P2000. To give an idea of the lack of accountability of this regime, since the self-coup in 1992, the legislators submitted 169 petitions for the formation of inquiry committees, however only one inquiry committee was formed and it was chaired by a loyal member of the government party. The other 168 petitions were carpeted by “lack of proof” or simply not even discussed. Likewise, most of the media outlets, controlled by Montesinos through a sophisticated mechanism that would be exposed in subsequent videos, was able to neutralize the few remaining independent newspapers and magazines launching smear campaigns in which many times the victims ended up being charged by the government with committing the very same crimes they were denouncing.

The broadcasting of the videotape and the promise to show more videos in the near future with further proof of the corruption of the regime left many legislators who until then had preferred to ignore the accusations against Montesinos, without arguments. The video left no room for alternative explanations. It showed intelligence advisor

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9 Research conducted by c. Henry Pease and presented in a press conference on November 2001 (see La Republica).
Montesinos bribing a congressmen with a wad of cash, US 15,000, and offering him to deliver the same amount every month. In the recording Montesinos behaved in such a manner that the population was able to conclude that he could dispose of the state’s resources as if they were his own. Utilizing phrases like “I need a majority in congress” or “I need to make sure that important bills will be approved” he behaved as if he were the real chief of state. The supporters of Fujimori could not help but to recognize that their leader was deeply involved with an advisor whose behavior was simply unacceptable. The traditional strategies utilized by the regime, denial or insinuating an international conspiracy orchestrated by the opposition parties, this time would not stop the public outcry.

Fujimori, who initially took the video lightly and assured his party that he could exercise damage control, now realized that the negative effects of the video upon his prestige and legitimacy were indeed very serious. By resigning to the presidency he thought he could control the pace of the transition, secure the survival of P2000 and most importantly, get rid of Montesinos once and for all. Even though Montesinos had been crucial for the consolidation of Fujimori’s power, he had become the heaviest liability of the regime. Montesinos’ control of the armed forces and of an important sector of the government party, added to the fact that owned hundreds of video tapes involving scores of government officials, including Fujimori, made him a formidable threat. Montesinos enjoyed considerable autonomy and he used it not only to silence the opposition but also to increase his personal fortune through drug dealing, weapon smuggling and money laundering schemes, among other illegitimate activities. The group closest to Fujimori, particularly First Lady Keiko Sofia, and a large number of P2000 legislators considered
that he was out of control. A high-ranking legislator of P2000 portrayed Fujimori as a thoughtful and responsible leader who sacrificed himself to avoid the people’s suffering:

Fujimori realized that the top brass of the armed forces obeyed Montesinos – now we know that they were really planning a coup – and the President did not want to expose the population to a bloody military confrontation. That would have been unavoidable. He resigned because he knew that with his resignation Montesinos and the top brass that he controlled would also fall.

The first reaction of the opposition parties to the president’s announcement was to abandon the congress and to refuse to return until Montesinos and C.Kouri were sanctioned. That measure in itself was not very pragmatic because P2000 had enough congressmen in its ranks to keep congress functioning without the opposition. The leadership of congress and of the committees was in the hands of P2000. Because of this the opposition had never been able to impose a course of action or even to negotiate its way in congress, reducing its participation to mere denouncing and protesting. However the symbolism of the abandonment was important. The members of the opposition were leaving as a sign of disgust, refusing to sit in the same room with people who owed their seats to illegal, or at least immoral reasons. The other forum of discussion, the Mesa de Dialogo of the OAS was also suspended pending an investigation of those implied in the accusations.

The leaders of opposition parties insisted on the need to force Fujimori to resign and to establish a transitory regime. This extra constitutional solution was based on the assumption that the present conditions had not been predicted by the constitution and therefore it was necessary to create an alternative solution, a consensual agreement,
beyond the constitutional framework. Any reference to terms in office and limits indicated by the constitution was dismissed as “juridical luxuries” that the nation could not afford in this period of generalized instability.

The opposition leaders said that the congress was irrelevant and that the Mesa de Dialogo of the OAS was the “authentic” center of decisions. In the OAS’s-sponsored dialogue, the “people” - a rather vague denomination at that point given the polarization of the population - and the political forces would reach and agreement that would be given status of law. With regard to congress, the opposition parties claimed that it was necessary to appoint a new leadership and to replace the committee chairs in a manner more representative of the real weight of the opposition.

There were different versions of the extra constitutional solution. The least radical of them allowed Fujimori to remain as president but with a transitory ministerial cabinet, which would include members of different parties. A version that generated interest among the electorate at that early stage suggested that Ombudsman Silva Santisteban, who had demonstrated a high degree of autonomy from the government to enforce the rule of law, should be at the helm of the transition cabinet. Even though the Ombudsman enjoyed high level of prestige among the population, the support for his candidacy as leader of the transition was far from unanimous. At this point some politicians’ ambitions to occupy the presidency in the near future began to damage the cohesion that the opposition parties were starting to develop. The politicians that will become the center of the presidential debate a year later made their apparition at this early moment presenting different versions of the extra constitutional solution: 1) Fernando Olivera from FIM,

\[^{10}\text{The Peruvian constitution does not give the President, or the legislature, the faculty to call for early elections.}\]
who had presented the Montesinos video to the press asked the population to remain calm and announced that he was ready to take power as soon as he was called by the people. 2) Lourdes Flores from the Right, defended the convenience of having Fujimori in power until the end of the transition. 3) Alejandro Toledo from *Peru Posible*, presidential candidate and alleged winner of the 2000 elections, announced marches and manifestations throughout the country as a mechanism to put pressure on Fujimori to resign immediately and to call to new elections. Finally, 4) ex president Alan Garcia of APRA, in exile and persecuted by Fujimori, announced his return to Peru thus introducing other issues in the political agenda, pending since Garcias’s escape in 1992.

In the background, the leadership of the armed forces was becoming increasingly nervous about their degree of involvement with Montesinos and there were constant rumors, ‘*bolas*’, that a coup d’état was being prepared.

**September 18 – 20: P2000 Proposes to Amend the Constitution**

After the initial disbelief and confusion, the P2000 forces in congress were able to reorganize and present an alternative strategy to the extra constitutional solution advanced by the opposition parties.

To the proposal of establishing a transitory government the legislators of P2000 responded that it was illegal because Fujimori had been the winner of the runoff election and there was no power vacuum. The president was still in office and congress had not stopped working at any point. Even though the institutional framework had been shaken by the accusations derived from the video, the future exit of Fujimori and the promise of new elections was sufficient to repair the damage caused by the manipulations of Montesinos. This position was reinforced when the Ombudsman, who was the most
likely candidate to lead a transition regime at that point, rejected that possibility indicating that that type of regime was not among those allowed by the constitution.

With regard to the divisions within P2000, the announcement of new elections could have increased the distance between the two main factions C-90/NM and Vamos Vecino because the two groups had legislators who were interested in running for president. However, C.Tudela, from C-90/NM, first vice-president and most voted legislator of the government and C.Vasquez, leader of Vamos Vecino, made declarations to the press in the sense that they would not run as candidates for the presidency. These pronouncements discarded any possibility of further frictions within the ruling party. Both leaders were aware that their leadership and absolute control of congress depended on the maintenance of a united P2000. The strategy of P2000 to deal with the scandal of the video in the public arena was less sophisticated. In their declarations to the press, the legislators of P2000 attempted to isolate Montesinos as if the rest of the party had had no idea of his illegal activities, and conveniently avoided the fact that several of the legislators of P2000 had defended Montesinos in the past and prevented any inquiry on his activities.

With respect to the opposition’s request for a new Mesa Directiva (the collective organ that governs congress, presided by the Speaker) and for a rearrangement of the committee chairs, the government answered that P2000 was still in power and the votes of the majority gave this party the right to continue in control of all leadership positions. Up to this point the principles of fair play and sharing the political power with the parties
in the minority, denied since 1992, were not implemented. Throughout the nine years of the regime since the self-coup, the opposition was never able to articulate a defense against this tyranny of the majority or to “go public” and gain the support of the citizenship to obtain at least some of the directive positions in congress. There is something to be said about the ability of the Fujimori regime to exploit the worst of Peruvian culture in order to sustain its semi-authoritarian outlook. The strong hand \textit{(mano dura)} approach to politics that had been highly effective in the fight against Shinning Path and to control hyper inflation in the early 1990s was utilized against anybody arguing a position different than the regime’s. Fujimori was not alone in using this type of discourse. Other leaders of opinion like Cardinal Cipriani and Lima’s Mayor Andrade had advanced similar arguments in the past. C Cipriani, in the name of public order and stability, was fast to condemn the rallies and demonstrations organized by Toledo and earlier, during the fight against the subversion he supported the strong hand approach of the president from the pulpit. Lima’s Mayor Andrade had showed intolerance in his dealings with ex-employees of the municipality recurring to repression and drastic measures to avoid listening to their arguments. The widespread authoritarianism that characterizes the behavior of Peruvian leaders of different political tents constitutes an engrained tradition that helped P2000 to resist the pressure coming from the opposition to relinquish its absolute hold on power.

Despite their unwillingness to share the conduction of congress, the members of P2000 did provide a route map for the transition that for the purposes of this work will be

\footnote{Throughout the nine years after the self-coup the party of Fujimori had absolute control of all leadership position in congress including the Mesa Directiva and the chairmanships of all the standing committees.}
called a constitutional amendment solution. The first station of this road map was to establish that the new elections for president and congressmen would take place in ten months, on April of 2001. This term was short but at the same time provided the candidates and the public enough time to generate the conditions for the realization of clean elections.

Since the constitution did not foresee the reduction of the terms of the president and the legislators it was necessary to make some amendments to its text. According to article 222 of the constitution, amendments must be passed by two thirds of the congressmen in two consecutive legislatures. Since the electoral process had to be initiated immediately, there was not enough time to wait for the two consecutive legislations. Thus, the proposal of P2000 was to submit to congress the amendments in the next days, pass them and immediately close the present legislature. The following week congress would be reopened for a second extraordinary legislature, a possibility contemplated by the constitution, in which the amendment would be ratified. In this manner the problem of the succession would be solved without any interruptions of the institutional life on the country.

Even though this alternative looked cumbersome and difficult to implement at these early moments, mainly because it required the agreement and participation of more than two thirds of the legislators in a highly polarized assembly, it was less controversial than the extra constitutional solution proposed by the opposition. This strategy was designed entirely in congress by specialists in constitutional law and administrative officials of the legislature. The coordination of the proposals was in charge of C.Marcenaro, chair of the Constitutional Affairs committee and member of C-90/NM. For P2000 it was important
to insist in the convenience of utilizing the congress as the setting for the discussion because they had the absolute control of the institution. P2000, despite representing a semi authoritarian government, was more inclined to follow this route because its legislators felt that they could control the pace of the transition. They controlled the office of the Speaker and all committee chairs, they could manage the agenda and decide when and what issues to advance. In comparison, the extra constitutional solution would be like opening Pandora’s Box. The sector of the opposition led by Toledo had shown its capacity to mobilize the population and P2000 was afraid of the consequences of social unrest. Unleashing the social frustrations could endanger not only their personal freedom but also the policies advanced during the Fujimori administration.

If the natural setting for the extra constitutional solution was the OAS’s *Mesa de Dialogo*, the constitutional amendment solution demanded the participation of the legislature. Only congress had the faculty to introduce amendments to the constitution. Besides, despite the problems generated by the scandal of the video in terms of questioning the legitimacy of the seats held by the *trans fugas*, the vast majority of the legislators had obtained their seats in relatively fair competition. Despite the existence of irregularities in the election of some congressmen derived from the use of state resources to favor P2000, the opposition had won most seats and its most important leaders had been elected to congress. The presence of the opposition and the elective character of the institution gave the legislature the political legitimacy that the Executive no longer had. The *Mesa de Dialogo* on the contrary was seen by a sector of the electorate, those who supported Fujimori, as an imposition that lacked representation.
The strategy was brilliant because it offered a relatively simple road for the transition without creating some kind of patchwork regime that would have required a long process of negotiation and accommodation of different interests. Unlike in most traditional transitions, where negotiations regarding a transitional regime consume lots of time and political resources, in the Peruvian case there was no need to create a new set of rules. A little tinkering with the constitution, without altering its essence, was all it took to regenerate the regime.

The main obstacle for the implementation of the constitutional amendment solution was to convince the opposition parties to become part of the process and to approve the constitutional amendments. P2000 and the government still believed that they could control the pace and even the outcome of the transition. Therefore, instead of using persuasion and offering the opposition parties at least a quota of the control of congress, they tried to coerce the participation of the opposition passing a bill that punished economically, those congressmen who did not attend to the sessions.

September 21–23: The OAS’s Mesa De Dialogo Implements the Constitutional Amendments

The days following the announcement of the date for the new elections and the proposal for constitutional amendments went by in relative calm. As it will be show in this section, timid steps were made by the leaders of the different parties to reach some initial consensus and new issues entered the agenda of the transition.

The OAS’s Mesa de Dialogo became the center of political deliberation when the government sent the drafts of the constitutional amendments. Even though the natural setting for the implementation of the constitutional solution was congress, at this point it
was not possible to hold any meaningful sessions there. The members of the opposition had decided not to attend until P2000 would give some clear signals of democratization, such as investigating Montesinos and C.Kouri and agreeing to a new distribution of the leadership position in congress.

Since P2000 was intransigent in all these points, the legislators of the opposition did not go back to congress and the *Mesa de Dialogo* became the only forum where the different parties could reach an agreement, or at least present their positions. Given the *Mesa’s* small number of members, (approximately a dozen), the neutrality of its sponsors and the personal skills of the international arbiter, ambassador La Torre, it provided an environment more prone to the generation of consensus than the Floor. The intimacy generated by the small group setting encouraged cooperation and communication, as it will be shown in the following pages. It also gave room for the participation of less known leaders who were not great social communicators or political campaigners but who were very knowledgeable and able to reach across party lines to generate consensus such as C.Valentin Paniagua from the small Accion Popular party. Later on he would become transitory president. A staunch opponent of Fujimori, C.Paniagua played a central role in the discussions of the *Mesa*, promoting consensus and encouraging a course of action that reflected the principles of the constitutional amendment solution. This is a clear example of how some leaders of the opposition also supported the exit plan designed by P2000.

Another characteristic of the *Mesa de Dialogo* was that it was composed almost exclusively by legislators. The representatives of the opposition parties were all legislators and the delegates of the government were also legislators. Initially, the
Executive had appointed a second rank public official to attend the meetings of the *Mesa de Dialogo* and P2000 had send a couple of the junior legislators of the group. However, once the crisis began the representatives of the Executive withdrawn and “heavy weights” of the different factions of P2000, such as C.Chavez, C. Vasquez and C.Salgado took their places. Excluding the representatives of the civil society and ambassador La Torre, the *Mesa de Dialogo* was constituted by the elite of congress. According to C.Alva, P2000 delegate to the *Mesa de Dialogo*, “the political parties represented made the commitment to obtain the votes of the legislators of their parties to back the agreements made at the Mesa.”

The analysis of the media reports during these initial days shows a few signals of distension. On the side of the government, two important leaders of P2000 made relevant statements. C. Vasquez from the *Vamos Vecino* faction expressed disagreement with the law that sanctioned the congressmen that did not attend the sessions saying that it was an imposition unnecessary in those difficult moments. Likewise, Vice President C.Tudela suggested that the transition would be easier if Montesinos resigned. On the side of the opposition parties, C.Olivera leader of the FIM party, agreed to the electoral chronogram submitted by the Executive. Despite this initial approach, two situations remained constant: the negative of P2000 to relinquish any degree of power in the conduction of congress and the standing committees and Toledo’s efforts for mobilizing people throughout the country to force Fujimori to resign.

Finally, leaders of the APRA party with only five seats in congress but with a long and solid tradition of participation in Peruvian politics asked that the issue of the Anti-Alan Law would be included in the agenda of the issues discussed by the *Mesa de*
Dialogo. The Anti-Alan law had been approved by congress in the 1990s and forbade anybody with a judicial process pending of resolution to run for elected positions. The real objective of the law was to prevent that ex-President Alan Garcia from the APRA party could run for president in the future. Garcia had been accused of misusing public funds during his administration and the process was pending of resolution. The law had been passed in the 1990s with the votes of P2000 and of Garcia’s enemies in the opposition parties, despite the fact that it violated blatantly the principle of presumption of innocence recognized by the Peruvian constitution.

The inclusion of this issue, apparently not very central to the transition, in the agenda is important because it shows how once the opening of an authoritarian regime starts, there is a race among a multitude of issues that were previously repressed and that now can be brought to light. To address these new issues becomes more and more complicated because they require the participation of more actors and considerations of medium and long term. An extra constitutional solution based on agreements reached by a few elite politicians reunited at a discussion table sponsored by an international organization, such as the Mesa de Dialogo, would not provide the adequate procedure to address all these issues. Likewise, once this group reaches a decision, the legitimacy of the outcome could always be questioned by the actors whose aspirations were frustrated. These discussions require time and the participation of all the groups whose interests are at play. Only congress can provide the level of popular representation necessary to address these new issues that in the Peruvian case will start to appear almost every week.
However only later in the transition congress will be able to start functioning as a real representative body that reflects the sentiments and opinions of the citizens. 12

September 24-28: Montesinos Flees Peru and P2000 Loses the Majority in Congress

On September 24th the newspapers informed that Montesinos had escaped to Panama and that president Fujimori, the United States and the OAS were supporting his request for asylum. No authorities had attempted to stop him or to make him accountable for the accusations that had been raised in the last ten years and that all of a sudden had became confirmed by a videotape. The reaction of the leaders of the opposition parties and the public was characterized by utter disbelief and anger. To add insult to the injury inflicted on the self-esteem of the nation, the day after Montesinos’ escape, the newspaper in charge of official announcements published a resolution signed by Fujimori himself accepting Montesinos resignation and thanking him for “his valuable actions in the service of the nation”. A few days later public uproar would force the government to issue a new resolution eliminating the section where the government thanked for his services.

The opposition leaders seized the moment and questioned seriously the credibility of Fujimori and P2000 and their claims that they were the best suited to lead a transition based on the respect for the constitution and the rule of law. The opposition argued that this supposedly constitutional solution offered by P2000 was little more than a strategy to obstruct the transition process and to keep controlling the government.

After questioning the credibility of P2000, the leaders of the opposition proposed a new plan. The alternative presented was a more moderate version of the original extra constitutional solution: they suggested the auto-dissolution of congress or the election of a new congressional leadership, that would be constituted by moderate members of the Vamos Vecino faction of P2000. The justification for this proposal was that the opposition was well aware that they lacked the necessary votes to elect a Speaker from the opposition. Even if a few legislators would leave P2000, it was clear from the beginning that resignation from P2000 did not necessarily mean that these congressmen would embrace the agenda of the opposition parties. The only realistic possibility of change would be breaking P2000 apart and convincing the break away faction, most likely Vamos Vecino, that they would play an important role in the transition government.

The alliance between Vamos Vecino and the opposition parties did not prosper. C. Vasquez leader of Vamos Vecino, declared that Fujimori continued being the boss and declined to be part of a list of candidates to replace the leadership of congress. Despite the efforts of C.Vasquez and of the leaders of the other factions of P2000 to maintain the order within the ranks, the escape of Montesinos caused irreparable damages to the alliance. In the following days five congressmen resigned and in Sep. 26th, for the first time ever, P2000 lost the majority of the votes necessary to control the congress. Other members of the alliance, such as C.Blanco, chair of the budget committee, without formally resigning to P2000 made public their disagreement with the way in which the president and the congressional leadership were dealing with those involved in corruption. Finally, members of Vamos Vecino indicated the need to reorganize the
leadership of congress and of the standing committees in order to reflect the new correlation of forces.

The leadership of P2000 tried to prevent further damage by finally taking action against C.Kouri and against another legislator who had made declarations to the press suggesting that Fujimori should resign. Both legislators were expelled from the party at a time when every seat was essential. The Speaker of congress, c Martha Hildebrandt warned the members of P2000 of the dangers of division and pledged no to resigning her post ever. Likewise, in an effort to show her willingness to move forward the transition agenda, she accepted the formation of a special committee to inquire into the role of Montesinos and the National Intelligence Service, for the first time since Fujimori took hold of power. The initiative did not prosper because the opposition representative at the inquiry subcommittee resigned, alleging that the majority of the members of the subcommittee were from the government and they would block any real attempt to find the truth.

Within the opposition, presidential candidate Toledo from Peru Posible led the most radical faction that refused any type of arrangement with P2000. The escape of Montesinos hardened the position of the legislators of Peru Posible, the largest opposition block in congress, and its demands for the immediate resignation of Fujimori. Toledo and his followers discarded the constitutional amendment solution indicating that the constitution did not need any amendments. They argued that it would be enough to pass an interpretative law. In reality an interpretative law would not be applicable in this case because the constitution did not contemplate the possibility of reducing the terms in office of the elected leaders. Thus, there was nothing to interpret. The leaders of Peru
Posible made reference to an interpretative law mainly to remind the electorate that in the recent past P2000 had abused and distorted the constitutional text passing blatantly unconstitutional bills by using a subterfuge called “authentic interpretation” of the constitution. An example of these constitutional distortions was the bill that allowed Fujimori to run for a second illegal reelection even though the constitution only permitted one reelection.

Parallel to these statements Toledo continued his calls to the people to march and demonstrate against the government. He was using politics of mobilization to push changes already underway in institutionalized politics. However, Toledo’s mobilizing strategy continued to be observed with suspicion not only by Fujimori’s constituents but also by an important sector of the opposition. The government had been very successful in labeling him as an unstable and irresponsible individual. He was portrayed by the government media as a radical whose actions could generate an environment of chaos and violence, images too difficult to bear for a nation still recovering of the struggle against the internal guerilla of Shining Path in the early 1990s.

September 28 - October 1: Restlessness in the Armed Forces

At the beginning of this chapter the leadership of the armed forces was included among the main actors of the transition in Peru. In fact, the leadership of the military was seriously involved in the corrupted schemes designed by Montesinos and was the group that had the most to lose if the control of the transition passed to the hands of the opposition. Any serious investigation would demonstrate the high levels of criminal activity among the top brass and irretrievably would put many of them in jail. The first two weeks of the transition had left the military leaders confused and disorganized,
particularly after the escape of Montesinos. The fact that the final outcome of his request for asylum in Panama was still uncertain increased the restlessness and the fears among the military leaders.

On September 28 C. Mendoza del Solar from P2000 declared to the press that the armed forces were organizing a coup d’état. He said that senior officers who wanted his support for the coup had contacted him and other legislators. He singled out the Joint Command as the source of these pressures. Despite the lack of official confirmation of these conversations, it is believed that they did take place. Rumors of an impending coup began to grow in the political circles of Peru and the international community. Fujimori at this moment was in Washington explaining his plan for the transition to the members of the Organization of American States and the Secretary of State of the United States.

The immediate reaction this time came from the international actors in the form of support for president Fujimori as the only legitimate ruler of Peru. International leaders such as OAS General Secretary Gaviria and US State Secretary M. Albright manifested their support for Fujimori. Finally, president Cardozo of regional power Brazil warned that Peru would be isolated in case of any intervention of the armed forces.

In these circumstances the parties of the opposition accepted to go back to congress but with a limited agenda, only to pass the bill that deactivated the National Intelligence Service (SIN). Delegates of the different parties at the Mesa de Dialogo had previously approved this bill. Toledo announced that the twenty-one legislators of Peru Posible would participate in the sessions of congress only after the OAS’s Mesa de Dialogo had approved the agenda. The rumors of restlessness among the armed forces and the possibility of a coup d’état provided the incentive necessary for the delegates of the
opposition and also for most delegates of P2000 to reach a consensus. One of the lessons of this detailed analysis of the transition will be that the Peruvian political class for the most part rejects the involvement of the armed forces in politics. Every time the rumors of coup started or, later on, when the leaders of the armed forces tried to impose conditions of the transition, the reaction of the political class was always to reaffirm the validity of the principle of military subordination to civilian authorities.

After passing the bill deactivating the SIN the opposition submitted a motion condemning any attempts by the armed forces to overthrow the constitutional order. The motion was not passed because P2000, that lost another four congressmen during this three-day period, opposed the wording utilized. According to c Chavez of P2000, the most ardent defender of the armed forces and the intelligence service during the Fujimori administration, it was inappropriate to issue a motion condemning a “coup d’etat” on the basis of unfounded rumors.

Even though the motion condemning any attempt to subvert the constitutional order was not passed, the really relevant issue was the deactivation of the National Intelligence Service - SIN. This institution had become the most powerful instance of government during the Fujimori administration, controlling a huge budget and exercising unchecked discretion over the armed forces, the judiciary, the media, an undetermined number of legislators and whole sectors of the bureaucracy such as the Internal Revenue Service and the Ministry of Interior. The headquarters of the SIN had also become a center for torture, bribing of public officials, behind-closed-doors deals with big corporations and for the planning of illegal operations involving drug and weapons smuggling. By the end of the
first two weeks of the transition the infamous SIN had been deactivated and its notorious boss was on the run.

Conclusion

This chapter begins by providing the setting for the transition and thus I introduced the main political actors and their motivations: the legislators from P2000, the leaders from the opposition, the international organizations and the armed forces. Regarding the first two sets of groups I placed special emphasis in showing how antagonistic were the relationships between them in order to show how this relationship will evolve in the following two months to a level of coordination unheard of in the previous decade.

The main objective of this chapter was to show how since the initial days of the transition the legislature occupied center stage. The choice was not an accident or the most logical course of action; instead it was the result of the actions taken by important legislators during the days that followed the broadcasting of the video. Fujimori and his congressional allies who were convinced that congress offered them the best chance of maintaining a substantial quota of power gave the initial push. The opposition initially seemed to prefer a solution outside the institutional framework but rapidly it realized the inconveniences of this course of action. Thus, the opposition accepted the role of the legislature but conditioned their support to a reform in the decision making process within the assembly. The opposition will not see this condition satisfied until much later in the transition, but nevertheless it will support the centrality of congress throughout the whole process.

This chapter presents a legislature unable to converse because of the blockades imposed by an inflexible majority that behaves with absolute disregard of the representative capital of the parties of the opposition. Given the fact that P2000 needed
the presence of the parties of the opposition to approve the constitutional amendments, the only strategy they can imagine is to impose economic sanction to those congressmen who fail to attend the sessions. However, the chapter also shows how the leadership of P2000 realizes rapidly the necessity to change its attitude and the first signs of self criticism and flexibility begin to appear.

Gaining and keeping legitimacy constitutes the biggest challenge for the congressmen. In the initial weeks of the transition it is very little what can be done because P2000 controls every position of leadership and every committee chair in the legislature. This group is still under the illusion that the video scandal can be overcome if they keep utilizing the same arbitrary mechanisms of the previous decade: avoiding any serious investigation of governmental wrongdoing. The escape of Montesinos, orchestrated by the government only worsens the already difficult situation. At this point legitimacy exists but not in the congress as an institution but in the hands of a few legislators both from P2000 and the parties of the opposition who represent conflicting views of different sectors of the population.

Given these conditions, the OAS’s Mesa de Dialogo appears as the only arena where it is possible to coordinate and reach agreements in an environment presided by an impartial arbiter and with fair rules of procedure. The next chapter focuses on the role played by this forum in the reorganization of congress.
CHAPTER 5
THE OAS’S MESA DE DIALOGO
OCTOBER 2 – OCTOBER 22

Introduction

I will not move from this table until we reach an agreement on this matter.”¹
Ambassador La Torre

This chapter analyzes the following three weeks of the transition, a period in which all the political actors had finally recovered from the initial shock of the video and the message of Fujimori reducing the term of his mandate. The main focus of this chapter will be the role of the OAS’s Mesa de Dialogo, a forum sponsored by the international community that provided the perfect scenario for the drafting of the final agreement of the constitutional amendments to reduce the terms of both president and legislators and created the conditions for the ‘liberation’ of the Judiciary from the mechanisms of subjection to the Executive established during the Fujimori administration.

In terms of following the theoretic framework established in chapters one and two, the goal of this section is to position the participation of the legislators at the Mesa de Dialogo as an strategy to by pass the deadlock of the legislature produced by lack of flexibility of the leaders of P2000 who controlled the congress. The dialogue promoted by the OAS had been granted legitimacy by the Fujimori administration even before the crisis begun when he appointed delegates to discuss the redemocratization of the regime. The opposition had also been willing to participate of the talks even though they did not

¹ Ambassador La Torre, Chairman of the OAS’s Mesa de Dialogo on the autonomy of the judiciary.
expect big changes. However, with the resignation of Fujimori, the *Mesa* became the only arena where these two opposite groups could present their positions in equal conditions. The power cycles argument of the US congress indicates that in order to recuperate decision-making capabilities, the legislature needs to introduce reforms that promote centralization and the apparition of a single, assertive voice. However the legislators will make sure that the centralization of power is only temporary so that once the crisis passes they are able to recover their individual positions of power in a more decentralized organization. This chapter shows that this is exactly what happened in Peru. The *Mesa* provided a temporary mechanism for centralization of decisions but the legislators constantly reminded the public opinion and the delegates at the *Mesa* that the real sovereign power resided in congress. The *Mesa* was not the source of decision making but a mechanism that facilitated the dialogue and the approval of agreements that would necessarily need to be approved by each legislator.

A dramatic example of the attempts by a group of legislators to reassert their position took place when the legislators tried to change the agreements reached at the *Mesa* in order to keep their seats for five years. I will show in this chapter how the reaction of the public prevented this change. Fortunately for the transition, the congressional leaders will learn to recognize the threat that this new crisis poses to their power, and will address it.

The chapter concludes with the analysis of the events motivated by the pressures exercised by the armed forces in order to introduce as a condition for the transition, a blanket amnesty for the officers involved in criminal activities during the Fujimori administration. Once again we will see how an important sector of P2000 congressmen
will budge and acquiesce to the pressures of the military, probably because they had benefited from a close relationship with them in the past. To overcome this crisis the forces of the opposition in parliament were not enough and a new round of popular rallies and demonstrations throughout the country as well as diplomatic negotiations were necessary to keep the transition moving.

A final aspect discussed in this chapter is the recovery of the capacity of the judiciary to check the power of the executive. The legislators at the Mesa were able to free this branch of government that guarantees that there is an independent body of professionals whose job is to uphold the rule of law and to protect the political rights of the individuals and groups who are not in power.

Finally, I emphasize the fact that Peru has a presidential system. This means first, that the legislative, the executive and the judiciary are supposed to be separate and autonomous unlike in a parliamentary system. If any of the branches lacks autonomy then the legitimacy of the whole system is compromised. Second, it means that the executive and the legislature have independent electoral mandates. The story of the transition is in part, a story of a legislature and judicial branches of the state struggling to recover their autonomy and legitimacy and the resistance of the Executive to that effect.

October 2 – 4: The Mesa de Dialogo at the Center of the Political Debate

Despite growing criticism regarding the lack of legitimacy of the Mesa de Dialogo, delegates of the government and of the parties of the opposition agreed to hold national elections on April 2001 and set specific dates for the two legislative terms that were needed to amend the Constitution to reduce the presidential and legislative mandates.
After this big success, representatives of the opposition introduced the issue of the deactivation of the Executive Commissions that were in control of the Judiciary and the Ministerio Publico (Sp Public Attorney’s Office). These two commissions had been fundamental in blocking any serious inquiry of the denounces of corruption presented by the opposition during the Fujimori administration. The judiciary and the public attorney’s office had been key to defuse any investigations about the role of Montesinos and to secure Fujimori’s second reelection. Understandably, the delegates of P2000 at the Mesa de Dialogo refused even to consider the deactivation of these commissions and argued that these changes should be debated in congress first. They knew that they still held the majority of the votes and the office of the Speaker and could stall the deactivation of the commissions.

The paralysis of the dialogue produced by the negative of P2000 to discuss the deactivation of the commissions rekindled the attacks against the Mesa de Dialogo. The main criticism was the lack of legitimacy of those delegates who were not congressmen or had not been appointed by the Executive. For instance, Ms. Macher, a delegate representing the civil society, was considered by P2000 an imposition of the political Left that had not obtained any kind of electoral support in the previous elections. Nonetheless her vote carried the same weight than the vote of the delegates of the executive and the legislative who had been elected by the votes of the people. A P2000 legislator complained during an interview:

Several delegates were imposed by supposedly independent organizations such as Transparencia. They did not represent anyone. The organizers of the Mesa de Dialogo were always trying to favor Toledo. They imposed their view points, rules of procedure and the different groups of the opposition started to negotiate among them: the return of (ex president) Alan Garcia, the reduction of electoral thresholds...
for the participation of small parties that were not really representative. (C.)
Paniagua was one of the main negotiators….

In a clear sign that congress was finding its voice a number of legislators argued
that it was unnecessary to have a forum parallel to congress. Legislators constantly defied
the dialogue arguing that they were the only legitimate representatives of the people.
According to them the fact that C.Kouri and the transmigrantes had been bought by
Montesinos, did not mean that all of them had to be deprived of their representative
functions. C. Chavez, P2000 indicated, “the Mesa de Dialogo can make
recommendations and they are important, but the final decision should always come from
the Floor of congress. The Mesa should not be seen as a substitute of congress.” C.
Tudela, P2000, argued that “the Mesa de Dialogo is not part of Peru’s institutional
framework and its decisions run the risk of being questioned in the future for their lack of
legality.”

Likewise, the opposition sensing that their chances to have an influence in congress
were growing as the numbers of P2000 legislators dwindled modified its discourse
allowing the possibility of returning to participate of the sessions of congress, as long as
the leadership of congress became more plural. As it was mentioned earlier, the
leadership included the Speaker and three vice presidents all of whom belonged to P2000.
C. Olivera, FIM declared that “From now on, congressional investigations and inquiries
should be decided and performed by multiparty sub-committees.” Other opposition
leaders such as C.Ferrero, Peru Posible, indicated that “We would be satisfied if at least
Speaker Hildebrandt were replaced, even if the vice presidencies remain in the hands of
P2000.” Finally, on a sign of goodwill that shows how consensus was growing within
congress, C. Serrato, P2000, chair of a committee, offered to resign his position in order to promote consensus.

The willingness of a section of the opposition to return to congress had to do with the new distribution of political forces generated by the resignations of P2000 legislators in the aftermath of the scandals of the video and the escape of Montesinos. At that point the distribution of the one hundred and twenty seats was the following:

Table 4-1: Distribution of seats in congress by October 2

<table>
<thead>
<tr>
<th>Party</th>
<th>Seats</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alliance Peru2000 (government)</td>
<td>54</td>
</tr>
<tr>
<td>Peru Posible - PP</td>
<td>21</td>
</tr>
<tr>
<td>Frente Indep. Moralizador - FIM</td>
<td>8</td>
</tr>
<tr>
<td>Solucion Popular</td>
<td>7</td>
</tr>
<tr>
<td>Accion Popular/Union por el Perú</td>
<td>6</td>
</tr>
<tr>
<td>APRA</td>
<td>5</td>
</tr>
<tr>
<td>Solidaridad</td>
<td>2</td>
</tr>
<tr>
<td>Avancemos</td>
<td>2</td>
</tr>
<tr>
<td>Independent (mainly ex-P2000)</td>
<td>15</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>120</strong></td>
</tr>
</tbody>
</table>


From the table it is important to highlight two aspects: that P2000 did not have enough votes to control congress by itself and that the Independent Group conformed mainly by legislators who had resigned to P2000 after the video scandal, was the second largest minority after Toledo’s *Peru Posible*. The numbers also show that the opposition parties had an opportunity to take control of congress only if they could persuade the Independent Group to join them. As the next two chapters show, it would be a very difficult process.

The Independents constituted a very diverse group; some of them such as C. Martinez del Solar were ex-P2000 who had resigned immediately after the scandal.
broke out. Others were *transfugas* (turncoats) who had originally been elected for parties of the opposition but after conversations with Montesinos had joined the forces of P2000. Finally, others were suspected to be *topos* (Sp.: moles), members of the Montesinista faction who had joined the Independents strategically, disguising their real allegiance in order to obtain an insider access to opposition information and even to discredit the group. Because of the lack of internal coherence and their unclear background, the parties of the opposition felt uneasy about entering into coalitions with the Independents. However, the leaders of the opposition realized that without the votes of the Independents they did not have any realistic chances of obtaining the leadership of congress. A pact with the Independents was unavoidable.

A public opinion pool was conducted in those days asking which would be the best way to reach a solution for the political crisis (See table 4-2). The answers reflect several interesting opinion trends. First, the polarization of the electorate between those who supported Fujimori even after the latest scandals (57%) and those who wanted him off the picture (42%) continued. The relative high markings of Fujimori were in part a reflection of the support he had received from the international community after the escape of Montesinos. In his recent trip to the United States Fujimori was patted in the back by Secretary of State Albright for establishing a schedule for the transition and was promised international support in case of armed insurrection. Supporters of Fujimori that had been shocked by the revelations of the video but rejected the idea of joining the opposition, particularly of supporting Toledo, could perceive than the international front was under control and supported Fujimori’s exit plan.
Comparing the results of September and October, another important trend was that despite Fujimori’s high level of support, a growing number of Peruvians believed that it was necessary to replace him in order to have a clean transition. In the next chapter another table will show how the number of those who wanted Fujimori out of the presidency increased very fast in November. These surveys must be examined carefully because, above all, they reflected a seriously confused public opinion that still did not want to believe that Fujimori’s regime was deeply corrupt. The surveys are also indicators of the lack of national leadership at the moment, and of how urgent it was for the legislature, particularly for the members of the opposition parties, to take rapid action and assume control.

Table 4-2: Do you think that Fujimori should resign so that a transition government is formed or he should stay in office until July 28?

<table>
<thead>
<tr>
<th></th>
<th>Set 18 2000</th>
<th>Oct 15 2000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fujimori should continue in power</td>
<td>62%</td>
<td>57%</td>
</tr>
<tr>
<td>Fujimori should resign/transition gov.</td>
<td>35%</td>
<td>42%</td>
</tr>
</tbody>
</table>

Sample size 502
Source: Apoyo Opinion y Mercado
Lima, October 2000

October 5 - 6: Legitimacy Crisis: The Legislators Do Not Want to Lose Their Salaries

The manipulation of the media and the use of state resources to favor P2000 that characterized the 2000 election had deteriorated tremendously the image of congress. The Kouri-Montesinos video had provided further proof that money and bribes had corrupted the institution to a degree until then unsuspected. As a result, the public did not trust congress and wanted the heads of the legislators, particularly of the transfugas, but also,
given the polarization of the electorate, they were angry with the leaders of P2000 and the opposition. No sector of the electorate protested when the amendment to reduce the legislative terms was passed. Arguably, to replace the one hundred and twenty legislators was a little too radical. After all by October 2000 there were no solid proofs of the corruption in congress, other than the case of the transfugas. An additional argument in favor of the fairness of the 2000 election was that the opposition actually had won the majority of the seats.

Based on this type of reasoning, an important number of legislators from P2000, tacitly supported by some of its peers from the opposition parties, started voicing their objection to this abrupt reduction of their mandates. Their discomfort was based on considerations of economic character. Most of the complainants were congressmen from the interior of the country, who had invested considerable sums to obtain a seat and that had set up a household and an office in Lima to be able to attend the sessions of congress. The new political circumstances were making them lose all of their campaign investments and the salaries that they would have accrued during the five years of their congressional terms. The salaries and perks that legislators receive are the highest in the Peruvian administration and losing their seats meant giving up a standard of living that would be very difficult to obtain by any other means.

Even though the Mesa de Dialogo had already agreed upon reducing the mandates both of the president and of the legislators, a group of congressmen suggested the Speaker that it would be better to vote separately the amendments reducing the presidential and legislative mandates. Their intention was to pass the amendment reducing Fujimori’s term but, at the time of voting the reduction of the legislative terms,
most of them would vote against the amendment. Thus, the legislators would remain in their seats until the end of their original terms in 2005. Since the voting for the amendment was secret, legislators of the opposition who were afraid to vote against the leadership of their parties but who resented the economic loss, would certainly vote against the amendment. The big losers of this conspiracy would be the voters whose distrust in congress would increase even more.

This strategy was unethical, selfish and ultimately delusional because the time when public opinion could be ignored or repressed had passed. When made public, this plan caused indignation among the population that saw these congressmen as greedy individuals who only cared about their own profit. If anything, this move sealed the fate of the legislators and the possibility of maintaining their original terms was not discussed again. It was clear that many of them could not be trusted to put the interests of the country and democracy in front of their own petty ambitions and had to be replaced.

The Speaker, in an attempt to appease the legislators, some of whom were threatening to boycott the sessions so that there was no quorum to vote the amendments, offered to pay a certain amount in compensation for lost salaries. This was not something entirely new. Since the return to democracy in the 1980s, congress had established as a practice to give all legislators a substantial bonus at the end of each five-year term. When, the Speaker offered a similar bonus to these congressmen, and news of this offer were made public by the media, the indignation among the population was so fierce that Speaker C.Hildebrandt had to announce that this time there would not be any kind of compensation.
During the interviews conducted for this research, congressmen both from P2000 and the opposition manifested their frustration for having been deprived of the benefits of a position for which they fought a fair battle. This economic sacrifice was an early sign that fair or unfair, some painful decisions were unavoidable. Besides, their worries were not unfounded, in the following elections that took place six months later, less than a third of the legislators were able to keep their seats.²

A lesson learned by the legislators from this episode was that the transition was unstoppable and that some of the old practices would not be tolerated, particularly in this moment when the public opinion was extremely sensitive to anything having the appearance of corruption and behind-the-door dealings. They also learned that to resist the changes and to pretend that it was possible to avoid public scrutiny and sanctions for those abusing power, was not a good strategy, in fact it was counter productive and very dangerous. The goal of including this apparently marginal aspect of the transition in the dissertation is to try to make the argument that the legislators were many times “forced” into behaving according to the rules and into reaching consensus. The close scrutiny by the media and a few individual legislators with democratic credentials; and the structural transparency provided by discussions taking place in the Floor of congress were the main causes for the congressional epiphany.

October 6: Congress Passes Constitutional Amendments

On October 6th, in accordance with the agreement reached at the OAS’s Mesa de Dialogo, congress passed the constitutional amendment reducing the mandates of the president and the legislators. According to the constitution, to be effective, the amendment had to be ratified in a consecutive legislative period. Thus congress passed² Information extracted from the web page of the Peruvian congress.
another bill authorizing the opening of an extraordinary legislative period. Both the amendment and the bill were passed without debate and were approved by 102 and 104 votes respectively (of a total of 120 legislators). Reaching the agreement to pass these two pieces of legislation by virtual unanimity was the most important success of the OAS’s *Mesa de Dialogo*. My survey of Peruvian legislators conducted in 2002 showed that a majority of respondents--66%--recognized an important role for the *Mesa de Dialogo*.

Despite the approval of these groundbreaking rules that cleared the path for a transition, the animosity between the opposition and the government within the assembly continued. The opposition refused to stay in the sessions for more time than the necessary to vote the agreements reached at the *Mesa de Dialogo*. P2000 responded by forcing constant roll calls threatening to consider absent those congressmen who did not answer when their names were called. Likewise, enforcing the previously approved law of sanctions for congressmen who do not attend the sessions, a list with the names of absent congressmen was published in national newspapers. Additionally, the Speaker announced that salaries would be affected if the legislators of the opposition continued refusing to show up to the sessions.

**October 7 - 10: Break Up of the Dialogue**

Passing the amendments the political actors had provided a path to overcome the lack of legitimacy of Fujimori’s third presidential term. The solution had been proposed by the Executive and articulated by P2000 in congress because they thought this path would allow them to control the transition. With the blindness and lack of historical perspective that characterizes the actions of dictators, Fujimori thought that in the new

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3 See Appendix for details of survey.
context he would continue receiving the support of a significant part of the electorate, that the media would continue censored and more importantly, that he would continue controlling the judiciary. The courts were the key to conduct autonomous investigations on the hundreds of denounces presented against the Fujimori administration, particularly against Montesinos. Fujimori, used to a situation without accountability, did not understand all the consequences of a transition. He thought that resigning to the presidency and marking distance from Montesinos would be enough to continue leading Peruvian politics. It is not possible to determine if this was a gross miscalculation or the consequence of being cornered by the opposition and having to surrender gradually more and more power. However, what it is clear is that when the opposition confronted the government at the Mesa de Dialogo requesting the liberation of the judiciary from Executive control, the government refused to continue the dialogue. The next paragraphs give the details on these events.

After establishing the procedure and the timetable for the transition, the next item in the agenda of the Mesa de Dialogo was the deactivation of the Executive Commissions in charge of the Judiciary and the Public Attorney’s office. However, the intransigence of the P2000 delegates made impossible any advances in this respect. About a week went by without reaching any agreement. Finally, Mesa de Dialogo’s president La Torre was frustrated and declared to the press that in this type of dialogue the representatives of the legislature were much more important than the ones from the executive. It was a clear signal that the Mesa de Dialogo had reached a limit and that the most likely alternative arena to continue the discussions was the legislature. However, the realization that
congress was the only alternative to overcome the stalling of the discussion in the *Mesa de Dialogo* did not mean that arriving to a solution would be any easier.

In the past, the opposition parties had complained about the unconstitutionality of these executive commissions and had presented proof of the corruption reigning at their core and the degree of influence that Montesinos had over them. Particularly the president of the executive commission of the Public Attorney’s Office, Nelida Colan had been accused by the opposition and the independent press of abuses, cover-ups and misappropriation of public funds, among other crimes, but she was never the subject of a congressional inquiry because the representatives of P2000 carpeted all the denounces.

Even though the *Mesa de Dialogo* was paralyzed during these days, one of its subcommittees did make surprising advances in coordinating between the ruling party and opposition. It was the Electoral Reforms Sub-committee led by c Paniagua, of the small *Accion Popular* party. Despite having C.Chavez, a tough representative of P2000 and C.Del Castillo, from the combative APRA opposition party, the subcommittee was able to reach a consensus on eleven items that would be implemented during the coming electoral contest. Among the most important agreements there was an amnesty for those who did not vote on the previous election (voting is compulsory in Peru), a reduction in the number of signatures required for the registration of parties, prohibitions for the use of state resources during the campaign and free access to the media.

*Peru Posible*’s response to the stalling of the dialogue was to call for more marches and public demonstrations against the government. This strategy characterized the most radical sector of the opposition and its positive effects are always difficult to measure. An important sector of the population rejected these marches as signs of intolerance and as
promoting violence and instability. Throughout the Peruvian transition the protests had a double effect: On one hand they contributed to put pressure on the government to continue moving toward the transition but on the other they allowed the government to present the opposition as intransigent and violent, and P2000 was able to demand a slower pace for the process of change that was echoed by the more moderate sectors of the population. Finally, C. Solari, Peru Posible, handed an ultimatum: “unless the deactivation of the executive commissions is approved Peru Posible will not participate in the dialogue.”

Preparing the Censure of the Speaker

In this context of a paralyzed dialogue and the growing radicalization of Peru Posible, to obtain the control of congress became the only possible road for the parties of the opposition that wanted a transition according to the constitutional rules. Even Peru Posible that favored an “extraconstitutional solution” and that never resigned to its strategy of mobilization and public protest knew that controlling congress was essential. To accomplish this the opposition had to force Speaker Hildebrandt to resign or to censure her according to the congressional rules, convincing sixty one legislators to vote against her. At this point, at least mathematically, the opposition had enough votes to achieve its goal.

The first movements of the opposition were directed to obtain the support of Vamos Vecino, the faction of P2000 that felt that C-90/NM, had not given them the share of power that they deserved. To widen the ridge between these factions, the parties of the opposition offered the post of Speaker to C.Macera a moderate from Vamos Vecino. In another strategic move, opposition leader c Olivera, requested that the voting of the
censure was secret, in order to allow those P2000 legislators upset with Speaker Hildebrandt’s leadership to express their opinion without fear of retaliation.

However, not everyone in the opposition was conspiring to break up P2000. C Paniagua’s, Accion Popular chose a different approach than the censure and the exacerbation of rivalries within P2000 that at that time did not look very promising but that demonstrated its long-term efficacy. He declared to the press that the censure should not be seen as a process in which the personal reputations of those in charge of congress were being questioned but instead as a natural consequence of the recent changes in the political environment. For C. Paniagua, who in a few weeks would became the next Speaker, the best path of action would be the resignation of Speaker Hildebrandt that would avoid the divisive trauma associated to a censure.

P2000’s response to the impending censure was to close ranks around Speaker Hildebrandt. She repeated for the nth time that she would never resign and dismissed the opposition’s request for a secret ballot calling it “the cowards way.” Despite her arrogance and authoritarianism in the conduction of the institution, there were no doubts about her loyalty to Fujimori and her determination to uphold her promise of not giving up her post. She was aware of the existence of different factions within the alliance but trusted that they would support her at the time of voting.

 Providentially, although more likely it was part of a behind-closed-doors deal, the courts acquitted c Vasquez, the leader of Vamos Vecino of any charges regarding the falsification of signatures during the previous electoral campaign. This investigation that had put several individuals in jail and sent one congressman into hiding (C. Medelius) was a heavy burden for the leader of Vamos Vecino. As it was mentioned in the previous
chapter, c Vasquez was accused by members of P2000 of tarnishing the reputation of the alliance because of his alleged participation in this scandal. His acquittal could not have been timelier. It came when each vote from P2000 was crucial. Vamos Vecino, by means of C.Espinoza, one of the vice presidents of congress declared that everyone in P2000 supported Speaker Hildebrantd and that if the opposition insisted on its attempts to censure her, it would hit a brick wall. C.Vasquez’s acquittal was another proof of how much influence P2000 had over the judiciary and how crucial it was to avoid the deactivation of the executive commissions appointed by the Executive to control the judiciary.

The corollary of P2000’s defensive strategy was to communicate its members and the population that the real intention of the opposition behind the censure of Speaker Hildebrand was to declare the vacancy of the Presidency of the Republic. The plan of the opposition, according to P2000, was to elect a new Speaker who would declare Fujimori morally unfit, and from then on the radicalized sector of the opposition would start a witch hunt that would damage even more the stability of the nation. Furthermore, c Salgado, another of the vice presidents of congress argued that the replacement of Speaker Hildebrant was not necessary because the P2000 leadership guaranteed the agreements reached at the OAS’s Mesa de Dialogo. The first part of the argument was probably close to the true intentions of the opposition. At this point the declaration of vacancy of the presidency would have been premature. There was not a real mandate from the people to replace Fujimori and the legislature did not have the legitimacy to lead the transition. However, the second part of c Salgado’s argument that it was not necessary
to replace the Speaker, was easily contestable given P2000’s reluctance to move the agenda of the transition beyond the reduction of the presidential terms.

The opposition rapidly counterattacked these arguments saying that they had already obtained the support of sixty-two legislators for the censure and that they would not declare the vacancy of the presidency. However, the opposition front was not very united with C.Olivera from FIM and C.Solari from *Peru Posible* arguing about who really represented the opposition. It was not clear if the parties of the opposition had reached any kind of agreement respect to anything except the need to replace Speaker Hildebrandt.

**October 11-13: The Judiciary Recovers Its Voice**

Despite the failure to deactivate the executive commissions of the judiciary and the Public Attorney’s office, the talks between the opposition and P2000 at the *Mesa de Dialogo* were reinitiated. In a move that illustrates the willingness of the leaders of the opposition to portrait themselves as flexible negotiators, they narrowed their request down to an issue that could not be declined by P2000. Instead of the deactivation of the executive commissions the opposition requested that the provisional magistrates of the judiciary were given tenure in order to secure their autonomy. At that time most Peruvians judges had provisional untenured status. Their lack of tenure had allowed the Executive, through the executive commission of the judiciary to threaten with removal those judges who did not acquiesce in politically important decisions. This type of judges had been in charge of most cases related to human right violations, drug trafficking, corruption and others that involved intelligence advisor Montesinos. In every instance the judges failed in favor of the executive dismissing cases in which there was ample
evidence of wrongdoing. Thus the judges had lost their autonomy and became subservient to the whims of the executive.

The day before the censure, the delegates at the Mesa de Dialogo agreed to grant tenure to the provisional magistrates of the judiciary. The agreement was an excruciating process whose final result owes much to the chairman of the Mesa de Dialogo who literally said “I will not move from this table until we reach an agreement on this matter.” Confronted with the forceful presence of OAS Ambassador La Torre and the potential censure of the Speaker, P2000 saw it convenient to surrender this substantial part of its control over the judiciary in order to maintain the dialogue going. Despite having been forced to concede on this point, the government presented the agreement to the population as a sign of its willingness to compromise. The opposition was accused once more by the leaders of P2000 of obstructionism and of having its own agenda to obtain through international pressures the presidency that the people had denied them in the elections.

What was really relevant is that by obtaining tenure for provisional judges, the judiciary recovered levels of autonomy and therefore legitimacy it had not enjoyed for the last ten years. This constituted a big step towards the deactivation of the Delegative Democracy model that had been implemented during the last ten years in which the power of the president remained unchecked by any of the branches of the state. The recovery of the legitimacy of the judiciary is still a work in progress. Many decades of abuse and control by the executive have made of the courts the most corrupt institution of Peru. The following survey published in December of 2002 gives an idea of the deep dissatisfaction of the Peruvian population with the judiciary.
Table 4-3: What is the most corrupt institution? (Spontaneous response)

<table>
<thead>
<tr>
<th>Institution</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Judiciary</td>
<td>43%</td>
</tr>
<tr>
<td>Police</td>
<td>23%</td>
</tr>
<tr>
<td>Government</td>
<td>8%</td>
</tr>
<tr>
<td>Congress</td>
<td>7%</td>
</tr>
<tr>
<td>Political Parties</td>
<td>4%</td>
</tr>
<tr>
<td>Armed Forces</td>
<td>3%</td>
</tr>
</tbody>
</table>

Lima, December 2002
Number of interviews: 512
First National Survey of Corruption
Apoyo Opinion y Mercadeo S.A

**October 13: The Censure Fails**

The days previous to the censure were characterized by uncertainty and constant negotiations. Despite the manifest optimism of the leaders of the opposition, it was impossible to hide the fact that they had not been able to find a candidate that could replace Speaker Hildebrandt. Even though, C.Macera from P2000 was repeatedly mentioned as a possible substitute that could get multiparty backing, after Speaker Hildebrandt’s call to order, C.Macera declined the offer and declared “…the recomposition of the direction of congress is not pertinent and could cause instability. I will not accept any invitation that includes the vacancy of the president of the republic”. In this way he was reinforcing P2000’s argument that the ultimate goal of the opposition was to get rid of Fujimori.

Notwithstanding these difficulties to find a candidate of consensus, the opposition seemed to consolidate its chances of success when the Independent Group, constituted by a dozen legislators, indicated that it supported the censure. At that point P2000 only had 52 congressmen and it was believed that even some members of the *Vamos Vecino* faction could vote with the opposition.
The day of the censure P2000 was very well organized. C. Vasquez leader of *Vamos Vecino* presided the session and thus secured the votes of his followers. C. Tudela, vice president of Peru, assumed the defense of Speaker Hildebrandt. In this way P2000 confronted the censure as a united front whose different factions were still able to act coordinately.

P2000’s strategy was very efficient and this first attempt to censure Speaker Hildenbrandt failed. Only fifty-six legislators voted in favor and sixty voted against the censure. The most likely explanation for this result was that several members of the Independent Group at the last minute decided to vote with their old colleagues. The fear of retaliation in case the opposition won this vote, was big among these legislators, particularly because of the aggressive discourse of some of the leaders of the opposition who were already threatening to put in jail everyone who had been associated with the previous regime. The *transfugas* from the Independent Group knew that they would be the first victims of any witch-hunt. Thus, with the support of all its votes and a few from the Independent Group, P2000 was able to secure its hold on congress. Speaker Hildebrant’s authoritative rule would continue for a few more weeks.

The opposition’s reaction was for the most part one of anger and frustration. C. Olivera, FIM, declared “the defeat of the motion of censure demonstrated that blackmail and extortion were still at the core of the regime”. C. Del Castillo, APRA, accused Montesinos, who at the moment was still in Panama, of orchestrating the defeat. Finally, Toledo, *Peru Posible*, ordered the members of his group to abandon congress for indefinite time.
October 14 – 22: Armed Forces Pressure to Secure Amnesty and the Political Class Denounces Military Interventionism

The events taking place in the following week are crucial to understand the progression of the transition. The armed forces had played a key role during the Fujimori administration and once they realized that the regime was coming to an end tried to force the political elites to guarantee that they would be extent of any inquiries regarding previous actions. This behavior is typical of the armed forces in Latin America and it is at the core of the O’Donnell and Schmitter model discussed on chapter 1. According to that theoretical framework, the political actors involved in the process of transition should enter in some kind of agreement with the armed forces guaranteeing their status quo. Depending on the particular circumstances of each transition, the pact could include securing a minimum budget for the institution, protecting military personnel from civilian courts guaranteeing that they would have to respond only to military tribunals, a blanket amnesty for the involvement of military personnel in activities against the law, and in certain extremes circumstances a significant political role for the military in the new regime.

The following paragraphs will show how in the Peruvian case there is a clear deviation from the O’Donnell and Schmitter model. Even though initially a sector of the political elite seemed to budge under the pressure of the military to grant a constitutional amnesty, a few days were enough to generate a consensus among the political elite, including the legislators of P2000 and of the parties of the opposition, in the sense that the military could not play any role in Peruvian politics.

On October 14th, unexpectedly, the ratified Speaker accepted a motion submitted by a congressman of P2000 and extended the term of the legislative session until October
31st in order to “include other constitutional amendments that are necessary for the transition”. This decision went against previous multiparty agreements and imperiled the implementation of the chronogram for the transition approved at the Mesa de Dialogo. This last-minute extension of the legislative period would delay the ratification of the amendments that reduced the terms of the president and the legislators and therefore it would not be possible to organize the elections according to the established schedule. In the following days it would be clear that the constitutional amendments insinuated by the Speaker had to do with the participation of the armed forces during the Fujimori administration.

In another highly suspicious move, C.Revilla, P2000, chairman of the sub committee in charge of investigating C.Kouri for receiving money from Montesinos declared that he did not see any criminal conduct in the video tape and proceeded to dismiss the charges. According to C.Revilla’s ludicrous interpretation of the facts, C.Kouri had received the money from Montesinos before swearing in as a congressman, and therefore he was not officially a public official. Besides, he added, there were no reasons to believe that the money provided by Montesinos belonged to the state and not to Montesinos himself. According to this legislator the video showed a legal a transaction between two private citizens.

These two events, the extension of the legislative period and Kouri’s acquittal, taking place immediately after the failure of the censure seemed to provide another proof that P2000’s promises of democratizing the regime and creating the conditions for a fair transition could not be trusted.
In response to the unilateral extension of the legislature, OAS ambassador La Torre suspended the *Mesa de Dialogo* declaring “the essence of this kind of mechanism is the respect for the agreements reached. Otherwise, its presence is irrelevant.” La Torre devoted the following days to try to persuade privately Fujimori and the leaders of the congressional groups to ratify the amendments as soon as possible. Field interviews revealed that United States’ Ambassador Hamilton also made multiple phone calls and informal invitations to his residence to convince the political actors to continue the dialogue. International diplomacy played a crucial role at this point to make possible the reestablishment of the dialogue.

My survey of legislators showed that most agreed that the diplomatic participation of the United States in Peru was motivated by genuine concern about democracy and that it contributed to the creation of an environment favorable for dialogue. The following account of one interview with a legislator explicates international participation:

The US ambassador was calling us all the time, inviting us to luncheons and cocktail parties. He wanted to make sure that we reached an agreement. In the Mesa unanimity was required for all the agreements. Likewise the Canadian ambassador and the OAS diplomats wanted us to continue discussing, to try to approach issues from different angles. They told us ‘do not break up,’ ‘do not kick the board.’ They were trying to transmit their own experiences of dialogue. The Mesa was like a kindergarten. Peru had not talked for years. This is the first time Peru talked.

The truth behind the extension of the legislature was that the armed forces were pressing Fujimori and P2000 to grant them a blanket amnesty. The argument utilized by P2000 to justify this amnesty was that it was necessary to include in the constitution provisions that guaranteed the reconciliation between the armed forces and the society. The military had been involved in the war against the Shinning Path and in curtailing the

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4 See Appendix for full details of the survey.
production and trafficking of narcotics since the beginning of the regime. P2000’s position was that during these endeavors military personnel had incurred in inadequate behavior that needed to be understood within the context of generalized violence that the country was going through at the time. The government argued that thanks to the actions of the armed forces the country had been pacified and it was necessary to look at the future and forget the previous offenses. As a result they argued, a general amnesty needed to be included as a precondition for the transition.

Although at the moment of writing this paper the truth about the involvement of the military on illegal actions is still in the process of been revealed in all its atrocity, in 2000 it was clear that a deep investigation was necessary.\(^5\) Accusations of human rights violations, participation in drug trafficking, creation of paramilitary assassination squads such as the notorious Grupo Colina and widespread corruption in the acquisition of weapons, among others had multiplied in the recent years. Many of these events required to be investigated and the culprits punished. Until 2000 every attempt to bring to court any member of the military had failed because of the lack of autonomy of the judiciary, the existence of military courts subservient to the top brass and the political decision of the regime to exclude the armed forces from any kind of civilian oversight. Now that the Fujimori administration was coming to an end, these bad officers wanted a constitutional clause that would shield them from any investigation of their actions.

Attempting to repeat their successful handling of the censure of the Speaker, P2000 organized carefully its strategy to advance the constitutional amnesty for the military.

\(^5\) In August 2003 the Special Commission for the Truth and Reconciliation issued its final report that includes an exhaustive analysis of the events during the war against the subversion. The document includes a section related to the crimes perpetrated by the military.
Once again the idea was to present a united front, including the different factions of the alliance. Accordingly, C.Tudela, vice president of the republic, was put in charge of arguing in favor of the amendment, making it evident that the amnesty was a very important issue for the government. The motion was seconded by C. Espinoza from the leadership of *Vamos Vecino* and C.Farah and C.Martinez from the Independent Group that in this occasion decided to side openly with the government. Apparently, like in the case of the censure, P2000 could secure its discordant sector, *Vamos Vecino*, and would receive enough votes from the Independent Group to pass this controversial amnesty and include it in the constitution.

The reaction of the opposition to the sudden introduction of this topic in the agenda of the transition was immediate. Leaders from all the political parties of the opposition denounced the so called “reconciliation amendment” as an excuse to give the armed forces impunity for all the crimes committed during the past regime. Although the more moderate sectors of the opposition were willing to discuss the granting of an amnesty for the military for their actions directly related to the fight against Shining Path, they were appalled by P2000’s intention to include in the amnesty every crime committed by the military during the Fujimori regime, including corruption and involvement in drug trafficking. There was no possible excuse for granting this type of blanket impunity.

This hardening of the position of P2000 after the failure to censure the Speaker undermined the democratizing discourse that P2000 was trying to sell to the population. As an unintended result, Toledo’s radical strategy of popular mobilization and demonstrations and his claims that the Fujimori administration could not be trusted to
carry out the transition appeared to be confirmed by reality, thus momentarily reinforcing
the position of the radicals.

The arbitrary inclusion of the issue of the amnesty for the armed forces showed that
the street (Sp.: “la calle”) was the only space that the opposition really controlled. The
institutions of the executive, the legislature and the judiciary were still in control of the
ruling party and responding to its traditional authoritarian logic. Likewise the Mesa de
Dialogo, confronted with an intransigent P2000 looked helpless. In the days immediate to
the extension of the legislative period and the dismissal of C.Kouri’s investigation, the
more moderate sectors of the opposition led by c Paniagua of Accion Polular and
C.Olivera from FIM, who had tried to find a middle ground between Fujimori and Toledo
appeared to the public eye as if they had been fooled by P2000’s pretense of a dialogue.
Furthermore, some political actors that until then had tried to present a more moderate
position, like Lima’s mayor Andrade, decided that the streets were the only spaces for
democratic construction and opted to throw their lot with Toledo.

Toledo, in light of the renewed support that his strategy received from different
sectors of the opposition, announced a big rally for October 17 in Lima and invited all the
representatives of the opposition. His strategy of mobilization looked as the most realistic
path. Media analysts declared the death of the moderates saying “this regime does not
have any soft liners and the cement that consolidates the unity of the authoritarian
government is a dirty pact based on corruption and blackmail. The conclusion was that
the regime would not listen to reasons or logic, only to force and pressure. The October
17th rally did take place and it was attended by the most important leaders of the

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6 La Republica, El Comercio.
opposition. Toledo insisted in the immediate and unconditional resignation of Fujimori and the organization of a transitional government controlled by the opposition parties.

A closer analysis of the media accounts of the events of those days and the interviews demonstrates that the opposition was not united around Toledo’s confrontational strategy. Most importantly, the death of the moderates, in both sides of the political spectrum, was by no means a reality. Politicians like C.Paniagua, Accion Popular, continued insisting that the battle for democracy should be fought mainly in congress. A dramatic example of the type of victory that C.Paniagua had in mind took place when Prime Minister Bustamante spoke in congress insisting on the need for a constitutional amnesty for the armed forces. After the minister’s presentation C.Paniagua took the floor and gave a magisterial lecture in Peruvian constitutional law explaining why it was not necessary to include the amnesty in the constitution. He explained that amnesties can be granted by congress at any time by means of passing a law and they do not require a constitutional amendment. Thus, the government should not present this issue as a precondition to continue with the transition. With uncontestable logic C.Paniagua made evident that the only reason for the extension of the legislature was to respond to illegal pressures coming from the armed forces. In the next couple of days the arguments of the debate were compiled by the press and made public. Other opposition leaders began to utilize these types of legal arguments that could not be easily dismissed by P2000. C Paniagua’s prestige among his colleagues grew when they realized that a powerful logic supported by the constitution and the laws could be as efficient a tool as popular marches and rallies to obtain moral victories over the ruling party.
Other political actors, outside the congressional arena, also supported the moderates implicitly criticizing Toledo’s strategy of political mobilization and his radical discourse. For instance, ex Prime Minister Valle Riestra, a former Aprista who worked for the Fujimori administration for a short period, reminded the political actors that congress should be the main forum for the political battles. In clear reference to the radical opposition he said that absenteeism and violent pressure were the worst strategies. Particularly now that P2000 did not have enough votes to modify the constitution, the opposition should prove its worth by being able to win battles in congress and in defense of the constitution. Finally, the Catholic Church, by means of the National Commission of Bishops, declared that dialogue was the only path to democracy and that it would oppose the amnesty for the military because the impunity would degrade the armed forces and the victims of their abuses.

On the side of opposition’s two characteristics contributed to make congress the principal arena for political battles: 1) Peruvian political parties are mostly caucus or elite organizations whose leaders are congressmen. Since all the opposition forces were represented in the legislature it was only natural that congress would become the arena for discussion. As it was mentioned before, the main obstacle for this was that the leadership of congress was entirely in control of P2000 that could not be trusted to respect the rules of fair and democratic politics. 2) The prioritization of street manifestations and mobilization promoted by Toledo was very effective as a mechanism of pressure but was not conducive to reaching consensus or agreements with P2000. This created the necessity for a space for coordination. Congress, with adequate levels of
representation for the parties and with a pre-established set of rules for the conduction of political debate, was the natural setting for compromise.

By October 21st, the leadership of the armed forces was restless. The generals had predicted that the amnesty would pass in a manner of hours and the fact that P2000 had extended the legislative term and that the amnesty was defended both by the Prime Minister and by the most important leaders of P2000 in congress seemed to point out in that direction. However, almost a week have gone by and the debate was still all over the media, the opposition was utilizing the constitution to undermine the arguments of P2000 and Toledo was running around the country mobilizing the population and encouraging rallies and protests. Following an old tradition of interventionism the leadership of the armed forces decided to put more pressure on Peru’s unstable political system.

With the clear intention of coercing the will of parliament, on October 21st a communiqué signed by the Minister of Defense in representation of the Chief Command of the Armed Forces was published in the national newspapers. In this document the military stipulated its “political responsibility” and openly requested a “reconciliation law” that provided amnesty for all the acts that took place during the Fujimori administration. The publication was accompanied by declarations of Prime Minister Bustamante supporting the petition. This strategy of “going public” in the face of the delays for passing the amendment was a reflection of the restlessness of the armed forces but most importantly of the inability of the Executive to resist the pressures. Even though the armed forces concentrated a lot of power during Fujimori’s tenure, only in rare
occasions they made a similar display of disregard for the constitutional formalities. Usually the military could count on the president, the judiciary and congress to shield them from any inquiry. This time they realized that there was little power left in the hands of the president and that a more direct threat to the entire political elite was necessary.

The strategy of the armed forces backfired in a horrible way. The communiqué generated immediate rejection from the opposition, but also from P2000, to the extreme that Vice President Tudela mentioned it as one of the causes of his resignation that he would announce two days later. C. Tudela, P2000, declared:

The communiqué is unacceptable because the military does not have any political attributions and therefore it should acquiesce to the orders of the President of the Republic as Supreme Commander of the Armed Forces. If there is any petition the armed forces need to put forward, it should follow the chain of command. Let me remind the Minister of Defense (a retired army general) that he does not represent the armed forces but the President who appointed him to the position.

C Tudela’s words provide a sample of the unanimous reaction of the political class that needs to be understood in the context of Peruvian politics after the military regimes of the 1970s. Both the 1978 and 1993 constitutions declared that the armed forces are “no deliberantes” (Sp: nondeliberative) and this has been interpreted as the prohibition to express any type of opinion regarding political matters. Despite the growing power of the armed forces during the Fujimori period, the rule of military silence regarding political matters was respected. In reality, they did not need to speak up because Fujimori and congressmen from P2000, particularly C.Chavez chairwoman of the Defense Committee

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7 In 1993, when congress was investigating the participation of soldiers in the murder of seven professors and students at Cantuta University the armed forces manifested their disagreement sending armored tanks to parade around the main streets of Lima.
assumed the constant defense of the institution. Besides, throughout the ten years of the regime Montesinos provided an informal but highly efficient linkage between the civilian and military facets of the regime. However, such an open violation of the rule of military silence would not be tolerated at this time.

**Conclusion**

This chapter shows a legislature engaged in a crash course of political responsibility making some big mistakes that are met with public uproar and indignation. First, congress is deadlocked because P2000 does not want to share the leadership of the institution with the other political parties. Then, a sector of the legislature wants to change the agreements reached at the *Mesa de Dialogo* in order to keep their seats for five years and, finally, when the armed forces request a blanket amnesty as a condition to ratify the constitutional amendments, the legislators of P2000 led by the Speaker decide to impose this new condition of the rest of the assembly.

Despite these three instances in which congressional behavior seems to justify its low levels of legitimacy, this chapter showed how solutions were provided to solve each one of the impasses. Leadership and statecraft exercised by the leaders of the opposition and by moderates in P2000 were crucial elements to understand the success. However, this chapter also highlights the importance of popular pressures and manifestations that reminded the legislators of the urgency of the crisis and of the precariousness of their situation. Likewise, international diplomats such as ambassador La Torre in charge of the *Mesa* contributed by denunciating the violations to the agreements and assessing objectively the government’s double game. This is of utmost importance because P2000
had a long tradition of making up their own version of reality that was then reproduced by the media and generated confusion and cynicism among the population.

The second objective of this section was to introduce the issue of legitimacy and its deficit in congress. The best example of this crisis is the attempt by a substantial number of congressmen to boycott the constitutional amendments in order to maintain their seats and their salaries. The public reaction was so negative that the legislators had to resign to risk their seats or to imperil the whole process of transition. This chapter also makes evident how the legislators use the newspapers and television to build a relationship with the people. As I mentioned in chapter two, the legislature had developed a very fluid system of communication through the media and at this point the legislators utilized it to obtain support for their proposals.

Another important aspect of this chapter was the liberation of the judiciary. By agreeing to give the provisional judges protection from arbitrary dismissal by the executive the legislators at the *Mesa de Dialogo* initiated the process of devolving Peru’s presidential system one of its central checks and balances. Additionally, during this period a large majority of members of congress approved the two constitutional amendments that reduced the mandates of the president and the legislators and thus provided Peru with a path to completely replace its highest political leadership. The effect in terms of legitimacy of these two accomplishments was immense. The political class of the country was actually responding to the needs of the population and taking prompt and radical measures that make them appear organized, accountable, powerful and representative of the interests of the majority. At this early stage, the *Mesa de Dialogo* was still necessary as a forum but, as I will show in the next chapters, once the opposition
began the struggle to control of the office of the Speaker, the center of gravity of Peruvian politics moved to the legislature, its committees and its party caucuses.

Finally, this chapter also shows the limitations of the *Mesa de Dialogo* in Peru, and how this type of forum tends to suffer of democratic deficit. The lessons from the Peruvian case are applicable to other likely scenarios where diplomatic missions are sent to promote dialogue among the main political actors. Internationally promoted dialogue can be very successful as long as directs its energies to address the broadest issues of the transition. The domestic institutions must work out the details. The problem is that many times the domestic institutions do not have credibility in which case the international actors must play the difficult role of regime builders and hope for the best. Fortunately this was not the case in Peru. There, congress was able to recover enough legitimacy to lead the process, through the actions of several courageous legislators that helped to foster and environment favorable for the generation of consensus.
CHAPTER 6
CONGRESS TAKES CENTER STAGE
OCTOBER 23 - NOVEMBER 9

Introduction

This section analyzes a period of the transition in which the legislature recovers its role as the main arena of political debate. The dominant issue during these two and a half weeks was the type of electoral system to be utilized in the coming elections. The debate over maintaining the single district system or replacing it for a multiple district cut across political boundaries and divided bitterly the ranks of P2000. This section will show how the legislature, that had been gradually gaining importance as an autonomous center of political decision-making, finally outgrows the Mesa de Dialogo. The turning point occurred when the debate about the electoral system divided the main factions of P2000 and allowed room for an authentic debate in congress.

The objective of this chapter is to follow the congress’ strategy for recovering legitimacy and for establishing a closest relationship with the voters, particularly with those living outside the capital. The electoral system debate presented a dilemma for most legislators: by changing the rules that allowed their election in the first place they could be dooming their chances for reelection. Even though the effect of these changes would not be the same for all the political groups represented in congress, most congressmen would be risking their seats and would have very little time to develop connections with new constituencies before the new election.
The legislators tried different mechanisms to avoid implementing a full fledged multiple district system, despite the growing claims of the population of the provinces who requested a more direct representation. I will show how the leaders of the political parties and the factions of P2000 at the Mesa entered into negotiations and attempted secret pacts to find mutually beneficial alternatives. In the end the leaders of congress realized that by holding blindly to their seats they were endangering the transition and their political future. By now, they had learned to measure the popular disgust and did not want to endanger the legitimacy that they were slowly recovering.

Besides the debate about the electoral system, other important events that took place during this period are the ratification by congress of the constitutional amendments reducing the presidential and congressional terms, and the sudden return of intelligence advisor Montesinos who had fled to Panama looking for asylum. The erratic behavior of president Fujimori while Montesinos was in Lima damaged even further the little chances he had of becoming a legitimate leader of the transition process. Finally, a military rebellion in southern Peru forced the legislators to confront once more the armed forces. The characteristics of the rebellion and the unanimous reaction of the political class seem to show a departure from traditional civilian-military relationships in Peru. By presenting a united front that demanded the immediate return to the barracks of the rebel officers, the legislators gained prestige among the population and made explicit their resolution to exclude any unconstitutional options during the conduction of the transition.

**The Electoral System Debate: Background**

Since Fujimori’s self coup in 1992, congressional elections in Peru had been organized according to a single district system. However, in 2000 an important sector of the political elite, including some legislators of the opposition and the majority of
members of the *Vamos Vecino* faction of P2000, supported the implementation of a multiple district system. The arguments utilized by each of the sides reflected the main arguments utilized by scholars who have studied the advantages of either system in consolidated democracies. Representatives of *Vamos Vecino* indicated that the multiple district system would improve accountability by providing a closer relationship between the legislators and their constituencies. According to them most provinces lacked effective representatives in congress because the single district rule favored campaigning in Lima, the capital that concentrated 30% of the electorate, and in a few large cities. Politicians basically ignored the less populated areas. Those against it, mainly members of the C-90/NM faction of P2000, said that the single district provided adequate levels of representation and that a multiple district system would favor a fractionalized approach to the problems of each region instead of developing a broader view of the national problems that was more convenient to address the constant crises.

However these divisions among the political elite reflected much more than scholarly positions in favor or against a particular system. In fact they were a clear reflection of the electoral strengths and weaknesses in terms of geographic distribution of the different political forces. For *Vamos Vecino*, a movement with strong provincial roots, the multiple district system was much more convenient. On the contrary, most legislators from C-90/NM were from Lima and a change of system would imply that they had to generate electoral support in the provinces, which was almost impossible given that the elections would be taken place very shortly. Likewise, competition for the seats corresponding to Lima would be more difficult than before because they would have to compete for a smaller number of seats.
The multiple district system was not an easy sell for the parties of the opposition either. Even though the opposition forces were aware that the single district had been one of the tools utilized by Fujimori to concentrate power and that it constituted a setback for the process of decentralization that was a traditional claim of the provinces, not everyone agreed with substituting it by a multiple district system. The leaders of the opposition parties knew the limitations of their organizations in terms of their centralization in Lima and the lack of provincial party committees. Some of the parties, such as FIM and UPP, had the majority of their supporters in Lima and they did not have much chances of obtaining seats in the countryside. Even the so called national parties such as APRA and Accion Popular were aware that in recent times regional movements had become strong competitors for the votes in the provinces.¹ The development of further regional movements, a trend that has been confirmed by the results of the regional elections of November 2002, represented a threat to the Lima-based elites.²

This discussion that will be presented in the following pages was especially important, not only because it decided the type of electoral system for the new elections, but also because it illustrates the progression of the process of transition. The terms of the debate had evolved, very swiftly, from discussions about how to remove abruptly Fujimori considering options such as a transition government backed by international actors to debates about electoral norms and issues of democratic representation and participation. This evolution responds to the fact that by the last week of October the

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¹For instance in the Amazonian region, the people’s rejection of the peace treaty signed with Ecuador in 1999 had created a strong regional movement completely autonomous of Accion Popular that traditionally had been the strongest force in the area.

²In the 2002 regional election, approximately a third of the regional governments were won by regional parties with no links to the parties represented in congress.
certainty of the realization of new and free elections was practically total. The political actors from all parties had reached an agreement to substitute Fujimori respecting the constitutional institutions.

This chapter presents Peruvian political parties acting in a manner that appears familiar for those studying institutions in democratic settings: trying to bend and modify the rules in ways that favor them, but respecting the limits imposed by the constitution and the laws. In the past, the orders had come from the Executive and the ultimate goal had been to subvert the system to guarantee the permanence of Fujimori. This time there was an open discussion were the opinions cut across partisan lines. Furthermore the figure of an overbearing president capable of imposing his will and terminating the political careers of anybody who gets out of the official line was gone. Despite the fact that the leadership of Congress was still in the hands of P2000, the following pages will illustrate a qualitatively more democratic exercise than ever before during the Fujimori administration, similar to the discussions that take place in more consolidated democracies. But first we need to go back to the historical account of the transition.

**October 23 – 28: P2000 Comes Apart--The End Is Near**

The two main topics concerning this sub section are the repercussions of the return of Montesinos to the political scenario of the transition and the division of the government party P2000 in two factions – C90-NM and *Vamos Vecino* – that had different views for the Post Fujimori regime. Likewise, we will see how in the aftermath of the rupture of P2000, the attitude of the legislature *vis a vis* the Executive changes from absolute acquiescence to the initiatives sent by the President and his ministers to a
more confrontational approach in which the legislature decides which policies are implemented.

The Return of Montesinos

On October 23rd Montesinos returned suddenly to Lima, after his request for asylum was rejected in Panama. His arrival to Peru motivated the immediate resignation of Vice President Tudela, also a congressman. According to his declarations his decision was a protest both against Montesinos’ illegitimate hold of the political system and against the armed forces supported by a sector of P2000 that wanted to give constitutional level to the amnesty for the actions of the military during the previous administration.

Two congresswomen of P2000 followed on C.Tudela’s steps. C. Schenone and C. Alva had been Minister and Vice Minister of Justice respectively during the Fujimori administration. Furthermore C. Alva was one of P2000’s representative in the OAS’s Mesa de Dialogo. Throughout their tenure they had forged a public image of independent technocrats and the news of their estrangement from the regime contributed to the image of a regime losing its most efficient cadres. A third congressman resigned the following day, reducing even further the size of P2000.

President Fujimori was also affected by the presence of Montesinos in Lima. His response was to mount a gigantic police operative including helicopters to search for his ex advisor. Most press accounts qualified the operative at the time as a parody, a mere theatrical strategy for domestic and international consumption. Even though there are no public opinion polls about this, few among the population believed that Fujimori was really interested in capturing Montesinos. Fujimori spent most of Oct 24th personally

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3 See previous chapter for more information on the amnesty and the pressures of the political system articulated by the top brass of the armed forces.
conducting the searches in different military bases near the capital. By nightfall he went to Montesinos’ apartment and ordered a district attorney to confiscate his properties, including hundreds of video tapes, clothes and documents. Posterior investigations have demonstrated that Fujimori’s intervention of this apartment and the extraction of Montesinos’ personal effects were completely illegal. The district attorney that supposedly conferred legality to the intervention was not really a district attorney. The most plausible explanation is that Fujimori wanted to extract any proof of his involvement in extralegal dealings. Fujimori knew that Montesinos videotaped every appointment he conducted and that he kept the videos for blackmailing or as safeguards in case he would get caught. It is widely believed that Fujimori, by making sure to be the first who got a hold of the videos, took those in which he appeared. Recent interviews to police officers that participated in this operative confirmed that the main objective was to secure information that could involve Fujimori in Montesinos’ extralegal dealings.\(^4\) Montesinos was able to evade the ill-organized manhunt led by Fujimori and vanished from the political arena until his capture in 2001 in Venezuela.

On October 28\(^{th}\) Fujimori, in another attempt to separate himself from Montesinos, forced the top brass of the armed forces into retirement. The general commanders of the Army, Navy and Air Force had been hand picked by Montesinos and owed their permanence in their positions, and their big banking accounts, to him. By replacing these officers, Fujimori was desperately trying to show that he was still the president and that Montesinos’ control over the armed forces was rapidly receding. However, the

\(^4\)On Aug 21,2004, La Republica newspaper published a series of articles and interviews that support those who argue that the only objective of the operative was to erase Fujimori’s tracks in any case of corruption.
replacement of the armed forces’ top brass did not imply that Fujimori was recovering any measure of influence over the military institutions. Such influence had been always carried out by proxy, at first through the powerful figure of General Nicolas Hermoza, chief commander of the armed forces until 1998 when he was substituted by another general designated by Montesinos. In retrospect, Fujimori’s dismissal of the leadership of the armed forces seems more like an act of desperation.

It is difficult to interpret Fujimori’s state of mind when he found out that in open disobedience to his orders Montesinos had decided to return to Lima. At the moment Fujimori was desperately trying to maintain his government afloat. The legislature was barely controlled by Speaker Hildebrandt and the opposition was becoming gradually more effective in organizing a solid front. Furthermore, Fujimori knew that Montesinos controlled the top brass of the armed forces and when he returned to Lima, Fujimori needed to make a show of force to demonstrate who the real chief commander of the armed forces was. Although unlikely, the possibility of a military coup against Fujimori was real enough to force him into immediate action.\(^5\) The presence of the media was essential to show the population that the civilian president was still in charge. Fujimori knew that Peru’s limited democracy and the presence of international observers would discourage most military officers from defying him openly in front of the cameras. On the other hand, Fujimori was not really trying to capture Montesinos. He had been his closest ally during most of his administration and he had been trusted with organizing the

\(^5\) Recent research had confirmed the organization of a coup against Fujimori led by Montesinos that would have established a transition government headed by Economy Minister Bolona.
darkest aspects of the regime. If anything, Montesinos’ confession could damage Fujimori seriously.

The journalistic accounts of these days show that Fujimori did not brief the congressional leaders of P2000 on how to react to the return of the notorious intelligence advisor. That is why the declarations that C.Salgado, C.Chavez, C.Espinoza, C.Monsalve and Speaker Hildebrant, made to the press were generic statements repeating the official line: “Montesinos has come back to justify his actions,” “the real reasons will be presented when is convenient,” and “Montesinos is the opposition’s favorite boogie man,” among others. Very few knew Fujimori’s real intentions; perhaps his daughter, First Lady Keiko Sofia, and a few other close collaborators.

With regard to the reaction of the opposition, the unexpected presence of Montesinos generated a variety of reactions among the parties of the opposition and the population in general. From the point of view of the most radical sectors of the opposition, particularly Toledo’s Peru Posible, the return of Montesinos strengthened their calls for the resignation of Fujimori. The leaders of Peru Posible characterized Fujimori’s attempts to capture Montesinos as a joke and renewed their request for a transitional government led by a junta of national personalities. Toledo challenged directly the role of congress saying that its incapacity to react to the presence of Montesinos was enough proof of its irrelevancy. On the other hand, more moderate opposition leaders like c Olivera, from FIM and c Del Castillo, from APRA sensing that the growing rivalry between Fujimori and Montesinos could be utilized to speed up the transition decided to resume the talks at the Mesa de Dialogo. The popular reaction to the presence of Montesinos in Lima was characterized by disbelief, frustration and
violence. The number of anti-Fujimori rallies increased and protesters stormed the fences surrounding the governmental palace.

The representatives of international organizations and governments were also highly distressed by this new turn of events, according to the media accounts of the days following the return of Montesinos. After observing on national television Fujimori’s half-hearted attempts to capture his ex-advisor, US Ambassador Hamilton declared: “the return of Montesinos is an act of treason whose only possible solution is Fujimori’s resignation”. Later on, Ambassador Hamilton requested a private interview with Fujimori to communicate the position of the Clinton administration: that Montesinos’ return was worrisome at the moment and that he did not have a role to play in Peruvian politics. The US Senate, supporting the position of the administration, issued Resolution 155 requiring immediate governmental action against Montesinos. After Montesinos left Peru for a second time, President Clinton declared: “We do not know what is going to happen next. In the meantime we must continue to support the democracy and legality.”

The same sensation of disbelief and anger took hold of the OAS’s Mesa de Dialogo. When Montesinos reappeared in Lima, the talks at the Mesa de Dialogo were already paralyzed because of P2000’s intransigency to postpone the topic of military amnesty. Evidencing the seriousness of the situation, Mr. Gaviria, Secretary General of OAS, made an emergency trip to Lima to try to break the deadlock. His presence at the talks softened a little the position of the representatives of P2000, and on October 24th, the Mesa was able to reach four crucial agreements that constituted the last intervention of the Mesa in the Peruvian transition. The key agreement was that the amnesty for the

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6 El Comercio, Expreso.
military would not be a precondition to ratify the constitutional amendments that shortened the presidential and legislative terms. The other agreements were mostly procedural: the date of the presidential elections was confirmed for April 8, 2001, the constitutional amendments would be ratified by congress on November 2\textsuperscript{nd}, and the voting for every constitutional amendment or censure in congress would be secret. A couple days later, on Oct 26\textsuperscript{th}, congress approved the first three agreements unanimously and reversed the fourth one because it was considered as contrary to the transparency required by the transition.

Before proceeding to the discussion of the fracture of P2000 it is important to explain why the legislature failed to break the deadlock and why the intervention of the Mesa was necessary. In the previous chapter it was explained how the positions of the government and the opposition with respect to the amnesty had been previously articulated in the floor of congress. Indeed, the arguments of the opposition magisterially presented by c Paniagua against the need to give constitutional level to an amnesty were uncontestable. Even Vice President Tudela, had manifested some degree of disagreement with the amnesty. A consensus among congressmen in the direction of finding alternatives to the amnesty was appearing gradually. However the return of Montesinos exacerbated the conflict. The political debate that was returning to the normal arena of congressional committees and floor discussions was brutally interrupted. Fujimori’s erratic behavior and the fact that the congressional leadership of P2000 was kept in the dark of the real intentions of the president rendered congress ineffective to overcome the crisis. Confronted with the presence of Montesinos, a character who had manipulated the regime for a decade and who was feared by many government officials, including
congressmen who owed him their positions, the legislature controlled by Speaker Hildebrandt was paralyzed. The failure of the legislature in this case is also explained by the lack of an autonomous leadership in the office of the Speaker, the absence of a leader willing to come out in front and demand the immediate capture of Montesinos. Despite all the advancements made throughout the transition, the legislature was not ready to tackle the most powerful man of the regime. Fortunately, the Mesa de Dialogo, supported by the presence of Secretary General Gaviria, the declarations of the Clinton administration and US Senate Resolution 155, provided an alternative setting for the reestablishment of the dialogue and reaching agreements.

**The Fracture of P2000 and Divisions with the Executive**

Parallel to Montesinos’ return to Lima, the real commotion during these days was taking place at the core of P2000. C Tudela’s resignation as vice president convinced C Vasquez and the *Vamos Vecino* faction that if they wanted to have a political future it was necessary to draw a line between them and C-90/NM, the faction that controlled most leadership positions. C. Tudela had received more votes than any other elected congressmen and his separation from the falling regime could be interpreted as a move to locate himself as a presidential candidate for the coming elections, a candidacy also coveted by C. Vasquez.

The break up of P2000 in its two main factions did not cause a formal separation with the consequent creation of new parties. The approximately thirty legislators of *Vamos Vecino* simply stopped attending the weekly coordination meetings where P2000 agreed on the positions that would be defended in the floor. The argument for the

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7 These meetings, called Plenitos (Sp. Little Congresses) had become an engrained practice for P2000. The plenitos were surrounded by secrecy and only congressmen had
separation was the reluctance of Vamos Vecino to accept the orders of Speaker Hildebrandt respect to two fundamental issues: passing the constitutional amendment to give amnesty to the armed forces and maintaining the single district electoral system.

When informing the press about the decision to stop coordinating with C90-NM, C.Vasquez, professed his loyalty to Fujimori and accused the resigning vice president Tudela of being the candidate of the opposition. These declarations confirm the interpretation that C.Vasquez was trying to obtain the support of sectors of the population who still supported Fujimori for a possible potential presidential bid.

The reaction of C-90/NM, the other faction of P2000, whose members had guessed C.Vasquez’s agenda since the moment he decided to create an organization autonomous of the traditional C-90/NM, constitutes another element that accelerated the progression of the transition. The more political savvy members of C90-NM wanted to neutralize Vasquez and at the same time wanted to secure their position at the center of the political debate To obtain their goals they implemented a two-pronged response to the separation. First, they delivered a frontal blow to C.Vasquez’ questioning his integrity: Instead of trying to rebuild the alliance, the leadership of C-90/NM resuscitated the scandal of the falsification of signatures in which C.Vasquez was involved. C. Chavez and C.Salgado asked the judiciary to reopen the case adducing that c Vasquez was making pacts with the opposition in order to obtain impunity for his crimes.

access to them. In theory, in these meetings different positions within P2000 were confronted in order to agree on a final position for the whole group. In practice, the plenitos were undemocratic meetings in which the party leaders transmitted to the legislators the instructions received from the real power holders: the Executive, and in the case of defense matters, the National Intelligence Service and Montesinos.
The second aspect of the response however, was much more interesting. The leaders of C90-NM realized that C.Vasquez was softening the regime’s position and that the traditional leadership run the risk of appearing to the public opinion as a corrupt and authoritarian group that had become and obstacle for the democratization of the country. Thus, not to be outpaced by Vamos Vecino, C-90/NM decided to proof their willingness to advance the transition and to sanction those whose participation in acts of corruption was suspected. In a surprising turn of events, the case against C.Kouri\(^8\) who had been previously acquitted, was reopened. The C-90/NM-controlled Permanent Committee of congress, a special committee that functions while congress is in intermission, decided that there were enough proofs in the video to indict C.Kouri. C. Marcenaro from C-90/NM even suggested that any further investigation was unnecessary because all the elements of the crime were on the videotape.\(^9\) This change of attitude resonated positively among the other actors of the transition and allowed C90-NM some room for movement at a point when C.Vasquez and Vamos Vecino were ready to start negotiating with the parties of the opposition. C90-NM needed to continue in control of the legislature, otherwise the opposition could impeach Fujimori, and organize a government that doubtlessly would be implacable with them. By agreeing to prosecute C.Kouri, C90-NM appeared respectful of the constitution and the due process and as a legitimate partner in any future regime.

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\(^8\) The congressman who appeared in a video being bribed by Montesinos.

\(^9\) When c. Kouri learned of this decision he fled the country, creating even more anger and disbelief among the population. The positive effect on the public opinion of this change of congressional behavior was undermined by the negligence of the customs police who left c. Kouri leave the country through Lima’s international airport.
Very importantly, in order to investigate C.Kouri C90-NM utilized another institutional mechanism, the Permanent Committee of the legislature, to legitimize its actions. Even though C.Kouri had already been acquitted by a sub committee, C90-NM used the Permanent Committee to circumvent the previous decisions to try C.Kouri again. The legislators of C90-NM were among the most knowledgeable persons with regard to the institutional framework of the legislature. They had written the 1993 Constitution, had created the new procedures for the legislature and had almost a decade of experience in controlling its functioning. Their capacity to utilize their knowledge of the procedures and regulations of the legislature at every step of the transition, and even to manipulate it to further their own purposes, highlights the need to use an institutional approach to understand Peru.

Lastly, with regard to the Legislative-Executive relationship, it is relevant to mention the heating up of a debate between the Minister of Economy and the chairman of the Economy Committee of congress, c Joy Way of the C-90/NM group. Chairman Joy Way refused to pass any law with economic content submitted by the minister, particularly excise taxes to beer, fuel and tobacco, arguing that the minister was trying to favor certain economic groups. The minister tried to bypass the committee asking Speaker Hildebrandt to waive the bills from being revised by the Economy Committee. The Speaker submitted the minister’s motion to the Floor for voting. Chairman Joy Way threatened with dismissing the Economy Committee if the motion was granted. The motion was defeated by the combined votes of C90-NM and of the legislators of the opposition who did not want the Executive to pass any surprise laws. However, Vamos Vecino’s thirty legislators did vote in favor of the Minister’s position.
The previous paragraph depicts a typical case of conflict of interests between the legislative and executive branches of any democracy. What makes it interesting for our analysis is that these kinds of debates had not taken place in Peru since the coup of 1992. During all this time the differences between the Executive and the Legislative had been minimal because it was clear that the power resided in the former. Even when there were small differences of opinion, the secretive coordination meetings of P2000 had been the traditional arenas were these differences were ironed out. However, by October 2000 congress had recovered a substantial amount of autonomy and an important number of legislators of P2000 did not fear to cross party lines and join the opposition parties to force the Executive to respect the congress’ right to oversee public policy.

In the previous chapter it was mentioned how the judiciary had already recovered some of its autonomy when the Mesa de Dialogo had agreed to give the provisional judges tenure, protecting them from arbitrary dismissal. Now, with the fracture between Vamos Vecino and C-90/NM and the need of these forces to define positions and be responsive to public opinion, instead than to Fujimori or Montesinos, congress was becoming more and more independent. Despite the failure of the opposition to bring Fujimori down or to replace Speaker Hildebrandt, a system of checks and balances was slowly but steadily emerging in Peru. In the following weeks every event will contribute to the deepening of this process of institutionalization and will show how congress became the undisputable champion of the transition.

October 29- 31: Military Uprising in the South

On October 29th Army Lieutenant Ollanta Humala and a group of about one hundred soldiers rose in arms against the leadership of the armed forces. Humala claimed to represent the soldiers and other officers worried about the politicization of the army
and the loss of institutional character. News of the insurrection received broad media coverage that highlighted the personal characteristics of the leader of the rebellion. Ollanta Humala was a young officer with a strong sense of nationalistic pride and to the eyes of a population whose trust in the government had been shaken by the recent scandals Humala’s motivations appeared idealistic and pure.¹⁰

What is really significant for the effects of this study is that the political class unanimously condemned the uprising and encouraged Lt. Humala to depose his belligerent attitude. The political class, particularly the legislators, saw this small rebellion as a potentially dangerous situation that needed to be put out immediately. Not even the opposition that in the short term could have benefited from the discontent within the military tried courting this sector of the armed forces. In a display of responsibility and maturity congressmen from all ranges of the political spectrum dealt with the issue cautiously, avoiding hurting the sensibility of the lower ranks of the armed forces that had suffered under the arbitrary rule of the commanders chosen by Fujimori and Montesinos. At the same time they rejected any military action outside the chain of command.

Legislators from the opposition such as C. Flores Araoz recognized the problems within the armed forces but indicated that an uprising was not a viable alternative. C Rey pointed out the need to maintain the prestige of the army. Additionally, two

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¹⁰ Lt. Humala had an impeccable resume having obtained the highest honors during his years in the military academy. Media outlets were filled with testimonials from friends and family who guaranteed the purity of his principles and his commitment to the armed forces. Even the name of the officer, Ollanta, had clear reminiscences of old Peruvian history. Ollanta, according to a play written during colonial times, was a triumphant general of the Inca Empire who rebelled against his monarch because he denied him the hand of his daughter in marriage.
congressmen from Toledo’s *Peru Posible* traveled to the south to convince Lt. Humala to halt the rebellion and take his men back to the barracks. Legislators from C90-NM were equally firm and careful in their statements. Speaker Hildebrandt declared “I recognize the sincerity behind Lt. Humala’s intentions but an insurrection cannot be allowed.” Finally, Salgado also from the government asked the rebels “to look at the advances obtained in the *Mesa de Dialogo* as an example of how dialogue is the only way to reach a solution.”

After Oct 31, the media rarely mentioned Lt. Humala. Despite the initial influx of popular support for the rebellion, its spreading to other areas was prevented by the swift and consistent reaction of the legislators.\(^{11}\) A survey made to congressmen from this period in which they were asked to rank in order of importance different events that took place during the transition, ranks Lt. Humala’s uprising consistently low.\(^{12}\)

**November 1 - 2: Ratification of the Constitutional Amendment and Liberation of the Universities**

The days following the uprising in the south and the successful strategy to solve the conflict implemented by the legislature brought significant advances in the process of transition. The most important one was the ratification by congress of the constitutional amendment that reduced the terms of the president and the legislators. On Nov. 2, one hundred nine legislators voted in favor and only two against. The ratification process was very arduous because of the growing disagreements among the factions of P2000.

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\(^{11}\) This solution was adequate for the particular circumstances but it was not definitive. The situation within the armed forces has continued deteriorating since the return to democracy. The armed forces in Peru have very low budgets, most of their equipment is out of service and the salaries of the lower rank officials are among the lowest in the nation. Needless to say, the degree of discontent among the rank and file is high. In 2002 Lt. Humala (r) and his brother Antauro created a political party with a radical platform that advocates redistribution of property to the poor and international isolationism.

\(^{12}\) See survey results in the Appendix.
Congressmen from *Vamos Vecino* tried to condition the ratification of the amendment to the approval of a multiple district system for the coming election. This new attempt to postpone the ratification of the amendments – the previous one had to do with the amnesty for the armed forces – was perceived by congressmen from C90-NM and the opposition parties as a matter that needed to be addressed immediately because the amendment was the key element to restore the democratic character of the regime.

*Vamos Vecino* denounced the existence of secret pacts to favor the continuation of the single district system and claimed that the OAS’s *Mesa de Diálogo* lacked the necessary transparency to decide the new electoral system. Accordingly, C Espinoza, from *Vamos Vecino* said, “my group will not ratify the amendment unless the Multiple District system is approved.” C Salgado from C-90/NM tried to avoid the discussion declaring to the press that, “the issue of the electoral system is still under discussion”. After a heated debate a consensus was reached when the legislators agreed on setting a date in which the electoral system would be discussed by congress.

With the almost unanimous ratification of the amendment, the most difficult part of the process of the transition was over. Peru had been capable to overcome a difficult institutional crisis and return to the legality in a very civilized manner. The constitutional order was being reestablished. The international actors did not miss the dimension of the accomplishment. The ambassador of the United States declared, “Now I am convinced that Peru would have free and fair elections and that the country is on its way to a genuine democracy.” Furthermore, he recognized the rupture between Fujimori and Montesinos and expressed his support for Fujimori as the leader of the transition. As it
will be shown in the next chapter, a vast majority of Peru’s political class thought that a real transition would take place only when Fujimori was ousted from the government.

The other relevant event that took place these days was that congress passed a bill ordering the dissolution of the intervention committees that controlled the public universities. These commissions were created in 1992 when Peru was confronting the subversive threats of Shining Path and Revolutionary Movement Tupac Amaru. Public universities were being utilized by terrorist groups for activities related to recruitment, organization and training. By the time Fujimori came to power the academic activities of these institutions were continuously interrupted and the lives of the students endangered by the presence of terrorist cells. In 1992, on a move that was broadly supported by students and the public opinion, Fujimori ordered the armed forces to set small compounds inside the universities and transferred the control of the administrative decisions to intervention committees appointed by the central government.

Once the terrorist threat was for the most part eliminated from the country the permanence of the military in the campuses and role of the intervention committees became more controversial. The intervention committees became very authoritarian blocking any type of student input and sanctioning, sometimes with expulsion, those who expressed disagreement or tried to organize protest. Another reason to maintain the committees in place was that according to Peruvian law public universities are part of a select group of public officials who elect the members of the Electoral Court, a constitutionally autonomous organism that has the last say in electoral matters, such as Fujimori’s irregular second reelection. For all these reasons, in 2000 the existence of the intervention committees was just another facet of the authoritarian character of the
regime. On November 2, congress passed a bill dissolving the committees with ninety-seven votes in favor and only thirteen against. The opposition parties and the majority of P2000, particularly the Vamos Vecino faction, supported the measure.

November 3 – 8: Creation of the Mixed District System and the Provincial Protest

Background

In Peru, the election of representatives for the lower chamber – Camara de Diputados - traditionally was conducted according to Multiple District rules. Each electoral district, or departamento, had a number of representatives proportional to its demographic weight. After Fujimori’s self-coup the Senate was abolished and the electoral system for the new unicameral congress was changed to Single District. Likewise, the number of legislators was reduced from 240 (180 deputies and 60 senators) to 120. The single district system was utilized for the election of the Constitutional Assembly of 1992 and the legislative elections of 1995 and 2000.

The self-coup also represented an abrupt end for the process of devolution initiated by the APRA government in the late 1980s. The APRA government created ten regions throughout the country with their respective assemblies whose members had been elected in the 1988 elections. In 1992 Fujimori dismantled the regional system and in its place appointed a Transitory Council of Regional Administration (CTAR) for each region thus eliminating any possibility of autonomy and self determination for the provinces. Fujimori portrayed the regional assemblies as inefficient and expensive copies of the national congress. Given the economic crisis and the grave subversive threat of Shining Path and Tupac Amaru, these regional assemblies, controlled by regional interests and with very limited presence of the Fujimori’s party, were seeing as obstacles for the
strategies designed by the central government to rescue the country. It is important to mention that the population supported enthusiastically each one of these dispositions.

The literature of electoral systems has devoted ample analysis to the advantages and disadvantages of the single and multiple electoral district systems. However, in the context of the Peruvian transition the main issue at stake was that the single district reinforced the electoral weight of Lima, where a third of the population lives, and left many departments without representatives in congress. An opposition legislator expressed: “The plan was to concentrate power in a single head, a single district, thus asphyxiating the provinces so that they had to depend always on the central government”.

The creation of the Vamos Vecino faction of P2000 was an attempt by the Fujimori administration to address the complaints about excessive concentration of the party and the party leaders in Lima. In fact most of the electoral support for Vamos Vecino’s came from the interior and many of its legislators had begun their career in local governments in the provinces.

During the last years of the regime, the regional claims were also articulated in the form of Regional Defense Committees that sprung in different cities in the Andes and the Amazon region in the late 1990s to denounce their abandonment and to demand participation in the design of policies that affected their regions.

Finally, the issue of changing the electoral system was an important part of the discussions taking place in the OAS’s Mesa de Dialogo, among the opposition parties and within P2000. However, only once the constitutional amendments were ratified and the certainty of the upcoming elections was total, this issue took central stage. As it will be shown, this debate generated a consensus among the Peruvian political class in the
sense that congress was the best forum for the discussion of the matters that would define
the characteristics of the new regime, and put an end to the functions of the *Mesa de
Dialogo*.

**The Mixed District System**

On Nov 3rd, the representatives of the different political forces in the *Mesa de
Dialogo* created a Mixed District system for the election of the 120 legislators. The final
agreement was a compromise between the supporters of the multiple district and single
district systems. Under the new formula ninety congressmen would be elected by
multiple district rules, according to the demographic weight of each of the twenty four
departments in which Peru is divided. The remaining thirty (30) would be elected
utilizing single district rules. The main supporters of the Mixed system were the
representatives of C90/NM. C. Salgado representative of C90-NM at the *Mesa de
Dialogo* declared:

The logic behind the Mixed system is to secure the reelection of the most seasoned
congressmen from the different political parties. This group of congressmen will
perform the role of mentors for the new legislators. Unlike those representing a
district and therefore tied to their local interests, the national legislators will have a
broader view of the country and its problems. The thirty national legislators will
constitute a ‘mini-Senate.’

The representatives of most parties of the opposition also supported the Mixed
District system. C. Ferrero, representative of *Peru Posible* pointed to strategic reasons to
justify his support: “I am in favor of the multiple district system but I will support the
Mixed system to facilitate the realization of elections.” The representatives of APRA and
*Accion Popular* also manifested supported for the Mixed District.
Despite the consensus reached at the Mesa, *Vamos Vecino* was in open disagreement with the Mixed system. Legislators of this faction denounced the realization of secret pacts between C-90/NM and the parties of the opposition. C. Serrato declared to the press “They are making secret pacts to secure their political survival in the next elections; *Vamos Vecino* will not ratify this agreement in congress.” His opinions were seconded by C.Velit and C.Reategui from his group.

Besides the creation of the Mixed system, the *Mesa de Dialogo* also agreed on a number of modifications to the electoral rules in order to secure the fairness of the coming elections. Thus, they reduced the number of signatures required for the registration of the political parties and eliminated the obligation for parties that obtained less than five percent (5%) of the votes in the previous election to renew their registration. Another agreement was that the state would finance free television time for the candidates to the presidency.

The creation of the mixed system and the change of the electoral rules in the session of the *Mesa* that took place on November 3rd generated a great deal of speculation and rumors about the reasons for the agreements. The political pages of the newspapers were filled with analysis that tried to uncover secret dealings between the political forces. The small parties such as *Accion Popular* (the party of c Paniagua, future president of congress and of the republic), APRA, UPP, among others that had obtained a limited amount of votes in the 2000 election were clearly favored by the change in the electoral rules. The rumor was that these parties had supported the Mixed system advocated by C90-NM in ex-change for these new regulations. The most serious accusation came from c Alvarado, representative of FIM at the *Mesa de Dialogo*. He resigned to the *Mesa* in
protest for the realization of under the table pacts between C90-NM and APRA.

According to him, c Del Castillo, representative of APRA at the Mesa, agreed to the new electoral system in ex-change for the abrogation of Law 27163 (the Anti-Alan Law) to allow the return of the leader of the party from exile.13

In retrospective, it is possible that there was some truth to the accusations of secret pacts among parties. After all C90/NM did want to secure the reelection of its leaders and given the national name-recognition of c Salgado, c Chavez, c Joy Way and c Marcenaro, among others, the mixed district rules would be very convenient. On the other hand, APRA leaders knew that the only chance they had to recover the traditional weight of the party was with the return of Alan Garcia from exile. Finally, it was true that the small parties required more flexible electoral rules, particularly because the proximity of the elections would prevent them from completing the process of re-registration required by the legislation.

The Mesa de Dialogo, a small setting with few participants, who knew each other from before and who effectively represented their congressional groups, appeared as the ideal arena for these kind of pacts. As we saw in chapter 1 there is a broad sector of the literature led by Karl that supports these pacts as the best way to construct a solid democracy. However the circumstances in Peru demanded high levels of transparency and participation. The videos and the revelations about Montesinos’ secret dealings had generated an environment of skepticism where the existence of conspiracies was readily accepted by the public opinion. Even if the secret pacts at the Mesa de Dialogo never

13 This law was passed in the early 1990s to prevented public servants who had been indicted for crimes against the state to run for office. The law was passed with the specific goal of preventing APRA’s ex president Alan Garcia to run for president ever again.
existed, the fact that its transparency was questioned was a sure sign that the transition required an arena that was absolutely legitimate and transparent. The *Mesa de Dialogo* appeared at this point as an obstacle for the free flow of political opinions. Despite the agreement reached by the representatives of the parties, the majority of their colleagues in congress rejected the Mixed district system.

Only congress could provide a setting where the different political forces could articulate their positions and reach a consensus that will became mandatory for all those who participated in the agreement. Once the main aspect of the transition, the procedure to replace Fujimori, was established, the number of political groups and interests multiplied.

On one side there was a diversity of interests among the different political forces. Within P2000, C90-NM was trying to secure the reelection of its leaders and *Vamos Vecino* wanted a system that favored its strong provincial roots. On the opposition the small parties demanded flexible rules that would allow them to compete in the coming elections, APRA needed to secure the return of its historic leader Alan Garcia from exile and FIM was trying to improve its chances of winning the presidential contest.

The other division was between legislators who wanted a bigger role for the provinces and those who supported the status quo. In what the media baptized as the *Rebelion Provinciana* (Provincial Rebellion), legislators from the interior of the country elected under the lists of APRA, AP, UPP, UN, PP and P2000 voiced their disagreement against the Mixed system once this was approved by the *Mesa*. The journalistic accounts include statements against this system by a great number of legislators including C.Luna Galvez and C.Lu from *Peru Posible*, C.Zumaeta of APRA, C.Barron from UN, C.Estrada
of UPP and C.Gamarra from FIM. The Provincial Rebellion was a protest that went beyond the changes to the electoral system. These congressmen were claiming that a process of decentralization should be started immediately to counteract the negative impact of hyper concentration of resources and decision-making in Lima.

In response to the open disagreement among the congressional ranks, on November 8, the representatives at the Mesa de Dialogo nullified the agreement that created the Mixed district system and entrusted the mission to design the new electoral system to congress. A group of provincial legislators from different parties associated in a caucus whose function would be implementing an effective process of decentralization.

The debate of the fundamental issue of the decentralization of the country could have endangered the pace of the transition. Especially now that the discussion would take place in congress where traditionally discussions take a long time to reach an agreement. Fortunately, once more effective congressional leadership came to the rescue. The broker of the solution of the Provincial Rebellion was C.Marcenaro, P2000, chairman of the Constitutional Affairs committee. He began by recognizing that what was at stake was much more that a voting system and pointed out that the next government would need to implement policies giving the regions of the interior of the country considerable autonomy of resources and decisions. However, C.Marcenaro added in a very persuasive manner:

This problem requires much more study and consultation. The issue at stake at this particular moment is a different one: how to provide a better representation for the country. We are constitutionally limited to 120 legislators and this means that those departments with small populations will have only one or two congressmen. This is a serious limitation in terms of gaining political weight. However the only solution would be to increase the number of congressmen and that will require another constitutional amendment. Given the lack of time and the urgency of the matter this amendment is very unlikely, therefore, for the time being, the provincial legislators
should limit their claims and try to find the best possible situation with the institutional framework available.

C. Marcenaro’s arguments were strengthened when his colleagues of C90-NM agreed to support the Multiple district system and not to push for any further constitutional amendment to increase the number of congressmen.

In the process of conducting interviews with the staff of the Constitutional Affairs committee I discovered an aspect of the debate that was not covered by the media. Contrary to their public position, most congressmen including those who were part of the Provincial Rebellion, were reluctant to support the Multiple district instead of the Single district rules that had allowed their election campaigning heavily only in Lima. A legislator said: “I asked my colleagues ‘how are you going to vote?’ Are you supporting the Multiple? Everybody answered ‘No, it is not convenient because I will have to campaign throughout the whole country.’” The legislators were aware that their short stay in office (three months) had been marred by the scandal of the videos and that most of them would not be reelected. If the Multiple district system were implemented, most departments would have an average of four seats, with the exception of Lima where approximately forty seats would be at play. To win one of those four seats was an insurmountable challenge for most congressmen in office. My survey of legislators also showed that about 70% of them considered that their votes came mainly from Lima.14 If the Multiple district system were implemented, most departments would have an average of four seats, with the exception of Lima where approximately forty seats would be at play. To win one of those four seats was an insurmountable challenge for most congressmen in office. My survey of legislators also showed that about 70% of them considered that their votes came mainly from Lima.15

Public opinion polls conducted in October and November showed that the majority of the population supported the Multiple District system but at the same time, and important percentage wanted the continuation of the status quo. If we add the figures of

14 About thirty legislators were reelected in 2001. Only 3 of them had been part of P2000.
15 See Appendix for survey results.
polls conducted in December we will see how after the process of transition was concluded there was a bigger stream of support in favor of the Multiple District system, a set of rules much better for such a diverse country like Peru.

Table 5-1: Which of the following systems do you think is best to elect legislators?

<table>
<thead>
<tr>
<th></th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multiple district</td>
<td>50%</td>
<td>51%</td>
<td>68%</td>
</tr>
<tr>
<td>Single district</td>
<td>43%</td>
<td>41%</td>
<td>24%</td>
</tr>
<tr>
<td>No opinion</td>
<td>4%</td>
<td>8%</td>
<td>8%</td>
</tr>
</tbody>
</table>

Lima, November and December 2000
Number of interviews: 512
Apoyo Opinion y Mercadeo S.A

Since the legislators could not oppose publicly the Multiple District without risking a higher level of alienation from the public, they recurred to different strategies to maintaining the status quo. These strategies included vague declarations of support to the press that recommended the creation of evaluation committees; not attending the sessions of the Constitutional Affairs committee and even private phone calls to the Chair and his advisors warning them that if a bill was presented for debate, they would not pass it. In the end, c Marcenaro’s effective leadership and the pressure exercised by the media and the popular organizations forced the reluctant legislators to pass the legislation. A legislator close to c Marcenaro told me “We acted with generosity. We had to work hard to convince our legislators that it was our responsibility to fix this.”

Creation of Sub-Committee to Investigate Montesinos

Parallel to the discussion about the electoral system the legislators were occupied with another key issue: the investigation of the banking accounts of Montesinos that would prove his involvement in mismanagement of public funds and other cases of
corruption. Throughout the regime, the independent media and the opposition parties had repeatedly denounced that Montesinos had millionaire accounts whose origin was unexplained. The honesty of Montesinos was ardently defended by Fujimori, the ministers, the judiciary, the media addicted to the regime and the legislators of P2000, particularly c Chavez, chairwoman of the Defense committee of congress, all of whom blamed those accusations on an opposition so desperate to gain electoral support that had to recur to the fabrication of false accusations. However, the video showing Montesinos bribing a legislator transformed the political scenario. The regime had to investigate Fujimori or to resign itself to loose all its remaining legitimacy.

The legislators of P2000 knew that the accounts of Montesinos were only the tip of the iceberg of a huge mafia-like organization involved in funneling government money into private pockets, controlling the media, overpricing in the acquisition of products and services, kick backs, drug dealings, manipulation in the promotion of army officers and human right violations, among many other facets of the corruption of the Fujimori administration.16 Posterior investigations would show that several congressmen were directly involved in these illegal activities. However, the participation of most legislators of P2000 in this corrupt apparatus was indirect, protecting the regime from any serious investigation of the denounces of corruption made by the media or the opposition, in exchange for enjoying the perks associated to the position of being a legislator. A clear example of the behavior of these legislators is that the Accountability committee, in

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16 At the moment of writing this dissertation the Peruvian government has recovered from financial institutions around the world US 80 millions and US 150 millions are pending of repatriation (information provided by the Procuradoria contra la Corrupcion, the ad-hoc office of the judiciary in charge of prosecuting those involved in cases of corruption during the Fujimori administration).
charge of pursuing any denounces of mismanagement of resources or abuse of authority coming from state officials, did not form a single inquiry subcommittee since 1992\textsuperscript{17}.

This time, when the opposition pressed for the formation of the sub committee, c Salgado and c Chavez, both from P2000, hopelessly tried to defend Montesinos and argued that their party should lead the investigation. The rejection of this proposal was almost unanimous and on November 6\textsuperscript{th} it was agreed that a member of the opposition would preside the investigation committee of Montesinos, giving for the first time since 1992 a relevant position to a member of an opposition party. However the agreement did not prosper because the opposition wanted to increase the number of subcommittee members from 3 to 5. What really worried the opposition was that P2000 could convince one of the opposition members not to investigate Montesinos and increasing the number of members the opposition would decrease the chances of foul play. The scandal of the \textit{transfugas}--those who were elected for the opposition and suddenly changed their allegiance to P2000--was still fresh in the mind of the legislators.

The insistence of Speaker Hildebrant to maintain a three-member sub-commission despite the open disagreement of the opposition that obtained enough votes to defeat the proposal submitted by the Speaker, produced more anger and agitation among the legislators that started screaming in protest. Among the insults directed to the Speaker, it was possible to distinguish more and more clearly the words “Censure!, Censure!”\textsuperscript{17}. At that point Speaker Hildebrandt decided to suspend the session without announcing when congress would reconvene again. With this attitude the legislators of the opposition parties were telling P2000 that they had consolidated a united front in two important

\textsuperscript{17}Information provided by the staff of c. Henry Peace, member of the Accountability committee and current Vice president of congress.
points: that the sub-committee should have enough guarantees to perform and effective investigation and that Speaker Hildebrandt had too be removed if there was going to be any chance of a serious investigation of the Fujimori administration. The events that unfold in the last couple of weeks of the transition will be presented in the next chapter.

**Conclusion**

This chapter presents a much more mature institution than the one that appeared in chapters three and four. The congress that we see in October is much more responsive to the needs of the population and more connected to the needs of the constituents. The flow of information is freer now that the influence of Montesinos over the media is rapidly waning and that there are people protesting and letting the politicians know their claims everyday throughout the country.

*Vamos Vecino* plays an interesting role that is recognized by the cycles of power argument. This faction of the government party sees electoral and political advantages in contributing to the solution of the national crisis and offers a national agenda and national action to help solve the crisis. In the case of Peru, the keystone of the agenda is the multiple district system that would provide every single district of the country a representative. Since grass root supports for *Vamos Vecino* comes from the interior of the country this strategy appears particularly attractive. The proposal of *Vamos Vecino* leads to a resurgence of legislative attention to institutional power and policymaking. Thus, after the initial negative reaction of those parties that have more to loose, and failed attempts to create a hybrid system that protects the interest of the legislators with higher rates of national recognition (the mixed district system), the legislators accept the need to make certain sacrifices in order to solve the crisis.
A second important element of this chapter is the solution to the military rebellion in Southern Peru. The most positive aspect is that no member of congress succumbed to the temptation of supporting a rebellion that potentially could have obtained popular support. The legislators were very aware of the magnitude of the crisis and even if they were willing to sacrifice their immediate seats by accepting the multiple district, they wanted to preserve the integrity of the institution. With a congress in place there were clear rules and a level field for all those who wanted to compete for an open seat. However if a military government would take hold of the government every chance of political survival would be lost and a great opportunity to exercise real power by the members of congress would be irremediably lost.
CHAPTER 7
RECONSTRUCTION OF THE DEMOCRATIC INSTITUTIONS
NOVEMBER 9 - NOVEMBER 21

Introduction

This last chapter illustrates the concluding moments of the process of transition, a period when the legislature appears as the unchallenged center of power. It constitutes the most interesting section because it illustrates how all the events taking place during the first weeks finally convinced the legislators that the road to a successful transition passes necessarily by the creation of consensus within the institutional framework provided by the constitution. After ten years of the growing authoritarianism of the Fujimori administration the legislature stands as the only institution with enough autonomy and potential legitimacy to lead the process of transition. The previous chapters have shown how the judiciary, the constitutional courts, the bureaucracy, the armed forces and the media did not have the capacity to offer a viable alternative to fill the vacuum of power generated by the crisis of the executive. Likewise, I have shown how despite the important role played at the crucial moments of the transition by international actors and by popular mobilization in the streets, these elements are subject to serious limitations, particularly in terms of legitimacy and responsiveness to the citizens. Only the legislature could accomplish the monumental task of reforming the regime and recovering democracy.

However, for the legislature to assume its historic role two fundamental obstacles remained in place. First, the legislature was still under control of P2000 and Speaker
Hildebrandt decided the content, the timing and the procedures utilized for all matters submitted to the consideration of the floor and the committees. Most importantly, the opposition had not shed the image of inefficiency and self-serving behavior derived from the previous attacks of the executive and from the multiple mistakes made by the leaders of the different political parties when trying to advance their own personal careers and agendas. In order to lead the transition first they needed to appear legitimate to the eyes of the population. In this chapter I will show how the censure of the speaker, the selection of the candidates to run for the office of the speaker and the catalytic triumph of opposition candidate C. Paniagua, removed the two obstacles mentioned at the beginning.

The election of Speaker Paniagua and the leadership style that he inaugurates constitute the highest peak of the cycle of congressional resurgence in Peru. As this chapter will show, he obtained the position by a combination of factors that made possible the centralization of the faculties of congress in his office. His campaign and the measures he took as soon as he assumed his post indicate a clear departure with the way in which congress was conducted during the Fujimori administration. Despite the logical frustrations and resentments of the members of P2000, Paniagua’s leadership cut across party lines and was well received by the remnants of the old regime.

Another point that I make in this chapter refers to Shapiro’s warnings about the dangers associated to the lack of an opposition. According to his argument, addressed in chapter 1, a democracy requires a viable opposition able to replace those in government once their legitimacy has been exhausted by bad policy making or by implementing mechanisms that guarantee their indefinite permanence in power. When there is a crisis in the system and there is not an alternative elite that can form a new government, people
get angry with the whole system and put the blame of the failure of the government on
democracy. This chapter will show that in Peru there was a vibrant opposition that at the
beginning was confused and inarticulate but that was able to overcome their collective
action problems. It was a tough learning process in which the citizenry followed closely
the decisions made by the members of the political class and communicated its discontent
and disproval through rallies and manifestations.

Finally, this chapter will explain how Fujimori was ousted from the presidency and
the rapid steps that Speaker Paniagua, supported by the majority of the legislators, took to
reestablished the rule of law and the institutional system of checks and balances
characteristic of every democracy.

November 9 – 12: Under Heavy Pressure, P2000 Accepts to Debate the Censure of
the Speaker

At the end of the previous chapter Speaker Hildebrandt suspended the sessions of
the legislature because of the lack of agreement regarding the number of members of the
subcommittee to investigate Montesinos. The day after the suspension P2000 issued a
statement to the press accusing the opposition parties of lacking the will to pursue
Montesinos. The objective was to create among the population doubts about the honesty
of the opposition and to present them as an obstructionist group of self-interested
politicians without any moral capacity to point fingers to the corruption of the Fujimori
administration. Speaker Hildebrandt threatened the opposition parties declaring: “if the
opposition insists in its attempt to censure the leadership of congress, the sessions will
continue suspended and the next elections will proceed according to the existing rules.”
The opposition parties were used to these types of accusations and did not pay much attention, however they had to confront the fact that the suspension of the sessions of congress had deprived them of the only forum to reach political decisions. The opposition needed a functioning legislature to approve the Multiple District system and the softening of electoral requirements for the small parties so that the next elections could represent a clear departure from the authoritarianism of the Fujimori years. The last session of congress had been controlled by the more intransigent sectors of P2000 and the opposition and it was necessary to reinitiate the dialogue immediately.

The strategy utilized by the leaders of the opposition to solve the impasse was to invite representatives of all political forces to an emergency session to decide the next steps. The meeting was attended by the parties of the opposition—Peru Posible, APRA, FIM, AP and UPP--, as well as the Independent Group, the “transfugas” and the Vamos Vecino faction of P2000. They agreed upon utilizing a procedural article from the statute of congress that indicates that congress may self-convene, without the presence of the Speaker, if the majority of legislators vote backing this request. Unfortunately the plan did not work because the opposition was not able to obtain the votes necessary to recommence the sessions. The atmosphere at the main hall of congress was very tense that day. While the opposition was desperately trying to gather 59 votes, the Speaker was in her office making sure that the members of P2000 abstained from coming to vote. Finally, she sent the Oficial Mayor (congress’ head administrative official) to certify that there were only 58 legislators, not enough to vote the motion, and to inform that the session would continue suspended until further notice.
The previous paragraph constitutes another example of adhesion to the rules and procedures that characterizes the behavior of the actors of this transition. Respect for due process and for acting within the constitutional framework differentiates the Peruvian transition from many others in which actors recur to extra-legal or political alternatives such as elite pacts to solve this type of crisis. In 2000 in Peru, despite the growing strength of the opposition and the imminent fall of the regime, the main political actors successfully tried to avoid any radical solutions. At a time when it was impossible to predict the next day’s developments, respect for legality became the best guidance for political behavior. Sticking to the letter of the law, even though the very Constitution had been approved by a government now considered illegitimate, was the only way to guarantee the transparency and obtain legitimacy in the eyes of the population. Ironically, the politicians of the opposition were using a constitutional framework that they did not support in the first place.

The next day, November 10\textsuperscript{th}, Speaker Hildebrandt, in a move that took the opposition by surprise announced that the suspended session would resume on Nov 13\textsuperscript{th} and that she would allow the process of her censure to take place. Her only requirement was that the formation of the sub-committee of inquiry of Montesinos would be the first issue on the agenda. On a coordinated press conference P2000 representatives Chavez, Espinoza and Lozada declared that “in the spirit of compromise and democracy, P2000 will support the creation of an inquiry committee formed by five members and chaired by a legislator from the opposition.” This sudden move forward when it seemed that the government was hardening its position, had become characteristic of the leadership of
P2000 during the transition.¹ It seemed as if it had developed a capacity to realize at certain crucial moments that the best way to proceed was to present itself as the champion of transparency and democracy.

The weekend previous to the censure was hectic for those making the coordination to secure the vote of all the members in favor or against the censure. The opposition wanted to make sure that the failure of the first attempt of censure would no be repeated. One of the first agreements among the leaders of the opposition was to disregard the Speaker’s request of voting the creation of the Montesinos sub committee before the censure. The logic behind this was to guarantee that the twelve members of the Independent Group -the *transfugas*— would support the censure. To introduce the discussion about the inquiry subcommittee about Montesinos, the man who allegedly bought the *transfugas*’ pass to the official ranks, would certainly alienate some of these congressmen who were afraid of being the next in line for an constitutional accusation.

The agreements among the leadership of the opposition were fueled by the popular pressure manifested in the realization of constant marches and rallies in Lima and the interior of the country, demanding the end of the Fujimori regime.

On the side of P2000, the First Vice President of congress, c Salgado insisted on having a reunion previous to the actual session of the legislature to agree on an agenda with the parties of the opposition. Likewise, President Fujimori broke his self-imposed silence to remind the political leaders of the importance of making the necessary changes

¹ Other examples of this progressive behavior are when Fujimori announced the realization of elections right after the video scandal, when P2000 presented the text of the constitutional amendments and then pass it, the softening of the electoral rules and the support of the Multiple District system in the Constitutional Affairs Committee.
to the legislation in the shortest term possible and to point out that the censure was an unnecessary distraction.

The following public opinion survey published by Apoyo in November shows the gradual increment of public dissatisfaction with the president

Table 6-1: Would you say that President Fujimori should?:

<table>
<thead>
<tr>
<th></th>
<th>Sept 18</th>
<th>Oct 15</th>
<th>Nov 19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resign</td>
<td>35</td>
<td>42</td>
<td>52</td>
</tr>
<tr>
<td>Continue until 07/2001</td>
<td>62</td>
<td>57</td>
<td>46</td>
</tr>
<tr>
<td>No opinion</td>
<td>3</td>
<td>1</td>
<td>2</td>
</tr>
</tbody>
</table>

Lima, November 2000
Number of interviews: 512
Apoyo Opinion y Mercadeo S.A

The eve of the censure was charged with expectative. If successful, the opposition stood a chance of replacing the Speaker with one of its members. The impeachment of Fujimori after the change in the distribution of power in congress was imminent. According to the Constitution, the president can be impeached by congress in case of moral incapacity and such motion was already being prepared by a sector of the opposition. In case of impeachment the constitutional order of succession indicated that Vice President Tudela should assume power, however he had already resigned. Second Vice-President Marquez, was the next in line but it was obvious that he lacked the political stature to lead the nation through the transition. Most importantly, the last in line was the Speaker and it was essential to secure this position for a representative from the opposition.

²C. Barron, UPP, was preparing the motion to impeach Fujimori based on the illegal seizure of evidence from Montesinos’ apartment a few days before (see chapter 5).
Despite the growing chances of obtaining the control of the state via the legislature there was a lot of apprehension among the political elite and the population about placing the leadership of the nation in the hands of congress. Peru had a strong tradition of Executive dominance that had been reinforced during the decade of the Fujimori administration and the replacement of the President by the Speaker did not have any precedent in recent history. Furthermore, Speaker Hildebrandt had been at the helm of the legislature for the last few years and despite her prepotency and lack of flexibility in the debate the political actors and the public knew what to expect from her. There was a lot of uncertainty about finding a legislator capable of leading the transition.

Besides the absence of a suitable successor, another factor that increased the fears associated to the censure was the lesser role that the OAS’s Mesa de Dialogo had been playing in the last weeks. The legislature had gradually recovered its role as a center of political debate. Since Montesinos had left the country and the transfugas had been exposed, the legislature was functioning with more transparency allowing the opposition parties to score enough victories to feel confident that the conditions had changed. The Mesa, particularly after its failure to settle the issue of the Multiple District system, was starting to appear unnecessary. There was a feeling of empowerment among the political class, particularly the legislators of the opposition, who started to feel uncomfortable with the presence of the OAS. A successful censure and the emergence of a new leadership in congress would certainly put an end to the tutorial presence provided by the OAS. The retreat of the OAS would mean that the international pressure on Peru would be reduced considerably. This scenario frightened the legislators of P2000 who believed that the next
government led by the opposition could seek revenge and use the excuse of cleaning up the political process to act arbitrarily and put them in jail.

Another frightful post-censure scenario was that the new Speaker would alter the basis of the transition by limiting the new elections to the replacement of the President. The members of congress would remain in their positions for their full five-year term. The rumor among the political corridors was that a secret pact would be made among legislators of all parties to support a consensus candidate in ex-change for their permanence in office. However, unlike in the transitions in Venezuela and South Africa presented in chapter 1 where power sharing pacts were at the center of the democratization process, in 2000 in Peru they were seen as negative and undemocratic exercise that was necessary to avoid.

Finally, what if the legislators elected a fragile speaker unable to lead Peru in the process of transition? During the last decade an assertive leader that with all his shortcomings, had been able to steer the nation through some difficult times had led the state. The fear of a weak leader that would return Peru to the times of social chaos and economic crisis of the late 1980s was present in the minds of those observing the process. A P2000 legislator confessed “It felt as if you built a house and suddenly you have to sell it off cheap and you do not know if the new person is going to take good care of it.” Another problem with having a weak speaker (who would became interregnum President) was that he or she may be willing to ignore the denunciations and accusations that had fueled the whole process in order to obtain support from both C90-NM and from Vamos Vecino to survive until the election of the new president.
As we can see, the political environment previous to the censure was charged with anxiety. The legislators of the opposition needed to make sure that the censure was followed by the election of a person able of transforming radically the way in which politics have been conducted for the last ten years. Otherwise, the whole transition would have not meant anything more than a palace coup and, given the depth of corruption that started to show up, those who had become entrenched in the institutions of the country--the judiciary, the media, the armed forces and the bureaucracy among others--would prevent the development of real democracy.

November 13: Censurada! P2000 Loses the Presidency of Congress

Despite the serious threat to his party’s control of congress, President Fujimori left Peru the day of the censure without informing any of the members of P2000. His original destination was Brunei, to attend the annual meeting of the Association of Countries of the Pacific Rim. In hindsight the real objective of this trip was to flee Peru before being impeached by the legislature and to request asylum in Japan, the land of his forefathers. However, at the time analysts interpreted Fujimori’s departure as a strategy to show the international actors, e.g. the Clinton administration, how without his presence a void of power would develop. In reality, the trip was perceived by the population and the political elites as a betrayal of those who had supported him loyally.

The day of the censure, the legislative session started with a request from the opposition so that the censure of the Speaker would be the first point of the agenda. Despite P2000 attempts to block this request, the opposition had enough votes to pass it. It was also agreed that C.Salgado, first vice-president of congress, would be the Speaker during the censure.
During the first part of the debate the members of the opposition presented the arguments against Speaker Hildebrant. Even though the real question was if the opposition had enough votes necessary to overturn the votes of P2000, still it was necessary to build a case against Speaker Hildebrand that would make her deserving of the censure. The main accusation had to do with the authoritarian fashion in which she had controlled the institution. Under her conduction, the legislature had excluded the opposition from occupying every single position in the hierarchy of congress, the Mesa Directiva. Likewise, despite having less than sixty percent of the seats, P2000 had concentrated all the committee chairs and made sure that P2000 outnumbered the opposition parties in every single committee. Under C. Hildebrant’s leadership the other parties have been relegated to mere observers of the political process. Furthermore she was not impartial in her interactions with the legislators. When dealing with the members of her party, P2000, she was willing to make concessions and bend the rules. However, in her dealings with the opposition parties she was rigid to the extreme and expected them to comply with even the most innocuous regulations. This behavior won her the apppellative of ‘ogress’ among the legislators. According to C. Del Castillo, from APRA “her prepotency was such that one day she answered to a request of the opposition yelling ‘you are not entitled to anything’.”

In her defense Speaker Hildebrant said that the statute of congress did not require the Speaker to rule by consensus: “the will of the majority, principle of democracy, has been always respected. If the members of the minority do not like this situation, they should work harder to obtain more seats in the next elections.”

3 Traditionally in Peru committee chairs are distributed among the different parties according to rules of proportional representation.
This argument responded to a limited definition of democracy broadly utilized during the Fujimori administration that did not recognize the need to protect the rights of the minority. It was based upon the assumption that there would not be alternation in power and therefore it was unnecessary to make concessions to the other parties with the objective of creating good will for the time when the party in government becomes the minority. Several legislators of C90-NM defended the Speaker but none of the members of the Vamos Vecino spoke on her behalf.

After the debate in the Floor ended the censure was put to vote and approved by a majority of votes. Sixty-four voted in favor and fifty-one against the censure. When the scoring table showed the final count a heavy silence took hold of the hemicycle for several minutes until a legislator of the opposition requested to initiate immediately a procedure of censure for the first vice-president, C. Salgado. Despite the protest of the members of P2000, C. Salgado, who was acting as Speaker, had to take her seat to articulate her defense.

The opposition was euphoric after the defeat of Speaker Hildebrandt and did not want to let go the opportunity of obtaining the control of the legislature. After a short debate, the censure was put to vote. However, this time the result was not definitive: Fifty-five voted in favor and fifty-five against the censure. C. Lozada, second vice president, acting as Speaker, settled the matter voting against the censure and saving C. Salgado. This adverse result reminded the leaders of the opposition that the transition was far from finished and that in order to accomplish their goals it was necessary to negotiate and to reach agreements. Consensus building, a rare occurrence in traditional
Peruvian politics, was becoming the only way of making politics in the post Fujimori scenario.

After the censures were voted, congress resumed its legislative functions and rapidly proceeded to create the inquiry subcommittee to investigate Montesinos. As previously agreed, the sub committee had five members and was chaired by a legislator of the opposition. With regard to the creation of the Multiple District system and the softening of the electoral rule for the small parties, after a short debate over the convenience of voting the measures immediately or to perform further evaluations, the legislature delegated the analysis of these bills to the Constitutional Affairs committee. This agreement was supported mainly by P2000 and APRA.

Public opinion surveys published in November show that approval rating of the Speaker had reached a very low level in October 2000 and by the time she was censured in November she was at an all-time low. These figures support the argument that the removal of the Speaker responded not only to the need to remove an obstacle for the deepening of the transition but also that legislatures were acting under a popular mandate. The people wanted Hildebrandt out and the legislature acted accordingly.

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<td></td>
<td>41</td>
<td>47</td>
<td>46</td>
<td>41</td>
</tr>
</tbody>
</table>

Lima, November 2000
Number of interviews: 512. Apoyo Opinion y Mercadeo S.A

These bills were discussed and revised by the Constitutional Affairs Committee and approved under the leadership of Chairman Marcenaro in late November.
Table 6-3: As a final balance, do you approve or disapprove Martha Hildebrant’s conduction of congress?

<table>
<thead>
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<th>Percentage</th>
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<tbody>
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<td>27%</td>
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<td>Disapprove</td>
<td>66%</td>
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<td>7%</td>
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</table>

Lima, November 2000
Number of interviews: 512
Apoyo Opinion y Mercadeo S.A

To top the events of this crucial day, a new video tape was broadcasted on national television. It showed a banquet organized by Montesinos and the members of the Joint Command of the Armed Forces in celebration of Fujimori’s triumph in the recent elections. The video caused anger and frustration among the population because Montesinos once again appeared as the person in charge of the reelection and the real chief of the armed forces. Furthermore, the involvement of the armed forces in an explicitly political event such as the celebration of an electoral victory clashed directly with one of the principles that inspire Peruvian democracy: that the armed forces must abstain of political participation. The video lent credibility to the reports made by the press during the electoral campaign denouncing that the army was proselytizing in favor of P2000. Like the first video this broadcasting reduced even more the already low legitimacy of the Fujimori administration and its congressional representation. At the same time it enhanced the reputation of the opposition parties that now could argue that they have been right since very early in the regime.
November 14 – 16: Election of the New Speaker: the Opposition Takes Control of Congress

The election of the successor of Speaker Hildebrant provides another example of the consensual nature of the decision making process in a congress that was gradually recovering its autonomy. Both P2000 and the parties of the opposition knew that the traditional way of conducting politics by imposition of the votes of a solid majority had come to an end. As I mentioned at the beginning of this dissertation this tradition of ignoring the voice of the minority parties preceded the Fujimori administration, however the last years had been especially difficult.

The experience of the censure of the Speaker and the failure to censure the First Vice President had taught the opposition parties that only by bargaining agreements it would be possible to further the transition. If they really wanted to restore a system of checks and balances they would have to put some of their personal ambitions on hold. On the other side, the legislators of P2000 had also learned that their only chance of controlling the pace of the transition was to advance a moderate candidate who did not generate frictions within the alliance and whom the opposition could accept in case of victory. Despite the scandals generated by the videos P2000 still retain some of its legitimacy. After all Fujimori was still in office and an important sector of the electorate supported him and disliked the opposition. Most importantly, both sides knew that in the very likely event of Fujimori’s stepping down from the presidency, the Speaker would became the president of the republic. Thus the election of the new Speaker, a process entirely in the hands of the legislators, would determine the end result of the transition: A process led by the incumbent P2000 or a complete replacement of the ruling elite by the opposition.
Selection of the Candidates

C. Marcenaro, P2000. To agree on a candidate was a very painful process for the different factions of P2000. The deliberations took place in private in a closed-door meeting of all the remaining legislators of the alliance. The events of that reunion had been reconstructed from interviews and media accounts. C. Vasquez from Vamos Vecino was the candidate with the largest number of supporters at the beginning of the discussion. However he was immediately vetoed by the legislators of C90-NM, particularly by C.Joy Way, one of the legislators closest to Fujimori. C90-NM blamed C. Vasquez’ ambitions for the divisions that had weakened the alliance and for ruining the reputation of P2000 by his involvement in the falsification of a million signatures in the previous presidential election.\(^5\) Several legislators indicated that C.Vasquez could not argue convincingly that he would advance a democratic agenda or that he would make a clean cut with the corruption of the past. The scandals he had been associated with in the past made him a candidate who could not guarantee free and fair elections.\(^6\)

C90/NM put forward its own candidate, C.Blanco, chair of the Budget committee and senior member of the party. Vamos Vecino indicated that C Blanco had resigned to the alliance a few days earlier and that presenting him as a candidate would portray P2000 as party that lacked capable and loyal members. Finally, the factions found a candidate they could agree upon in C.Marcenaro, chair of the Constitutional Affairs committee. In the previous weeks he had been actively involved in coordination with the opposition and in advancing the transition agenda, particularly the approval of the

\(^5\) In private, several leaders of C90-NM indicated that C. Vasquez inflicted more damage to the alliance than Montesinos and the videos.

\(^6\) The accusations against C. Vasquez had been made by the moderate Lima newspaper “El Comercio” after an exhaustive investigation and left little room for doubts about his involvement in this serious breach of the law.
Multiple District system. Despite a few comments against C. Marcenaro’s candidacy, all the members agreed that he was the best candidate to run for the office of the Speaker. P2000, after being dominated by Fujimori and Montesinos for the last ten years also was learning to reach decisions by consensus.

**C. Paniagua, Opposition.** The process of candidate selection among the opposition parties was remarkably similar to the one taking place in P2000. Initially there was a very strong candidate, C. Ferrero member of *Peru Posible*, the largest party, but in the end the legislators elected C. Paniagua, one of the only three members of *Accion Popular*. In hindsight choosing C. Paniagua was the most logical option given the motivations of the different parties and the premium placed by the legislators on consensus building.

C. Ferrero a seasoned legislator with lots of legislative and political experience was not able to agglutinate the different forces within the opposition. His close relationship with *Peru Posible*’s leader Alejandro Toledo, portrayed him as lacking impartiality to preside over the upcoming electoral process. Traditionally in Peru, executive chiefs have made overt use of the state’s resources to campaign in favor of the candidates of their parties. In the likely scenario that C. Ferrero became president, the other candidates feared that he could use the ministries and the departmental agencies to campaign in favor of Toledo. Furthermore, members of *Peru Posible* would occupy the positions of power in the transitory government and even if C. Ferrero himself were not involved in these kinds

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7 Later on, during the Toledo administration, C. Ferrero became Speaker of congress for two consecutive years and currently holds the office of Prime Minister in the Executive branch.
of maneuvers there was no guarantee about the behavior of partisans desperate to secure
the triumph of their leader.

Another problem with C.Ferrero’s candidacy had to do with his own political past. C. Ferrero’s previous period in congress, from 1995 to 2000, was as a member of C90-
NM, the party of president Fujimori that now he vehemently opposed. Even though he
could claim that he opposed in the Floor several measures proposed by the Executive at
the moment of voting he usually followed the party line. In the late 1990s, in view of the
growing authoritarianism of the regime, he had joined the ranks of the opposition.
Notwithstanding his new role as opposition leader, his active participation during the
Fujimori administration generated doubts among his colleagues about the firmness of his
convictions and tarnished his credentials as a leader who could inaugurate a newer,
cleaner, way of doing politics.

Additionally, an important disadvantage of C.Ferrero’s candidacy had to do with
his difficulty to relate to two key groups: P2000 and the transfugas. P2000 was still the
largest group in congress, and with or without the control of the office of the Speaker,
their collaboration was essential to accomplish the legislative changes necessary for the
elections. Throughout the last year Alejandro Toledo, leader of Peru Posible, had become
P2000’s main enemy. He had been the target of constant attacks from the Executive, the
legislature, the judiciary, the media paid by the government and the National Intelligence
Service that had tried to portray him as an irresponsible substance-addict and a violent
social agitator. The possibility that Toledo’s party would take over the office of the
Speaker and of the transitory government inspired great fears among the ranks of P2000.
In a Peru Posible government all those who had participated in the attacks against Toledo
would have to pay for their actions. For similar reasons, the *transfugas*, those who had changed allegiance to join P2000 and that after the video scandals had constituted the Independent group, had to think twice before supporting C.Ferrero. They were aware that they would become the first victims of any witch-hunt initiated by *Peru Posible*.

Fortunately for the opposition there was another candidate. C. Paniagua’s personal credentials were very impressive. He was a college professor of constitutional law, with a master’s in political science from Indiana University and a long political career including tenures as minister and legislator since the 1960s. Likewise, his role in the OAS’s *Mesa de Dialogo* as representative of the opposition and chair of the sub-committee in charge of proposing changes to the electoral legislation had given him national stature. His knowledge of constitutional matters and his consensus-building skills gained him the recognition of his colleagues both from the opposition and from P2000. As indicated in Chapter 4, this sub-committee of electoral modifications produced some of the first instances of effective agreement between the contending sides. Furthermore, he was not from Lima, he had been born in Cusco in the southern Andes, and had been elected deputy for that district in the past. This condition of *provinciano* made him a likely interlocutor for those legislators favoring the enactment of the Multiple District system.

Unlike C.Ferrero’s, C.Paniagua’s past could not be linked to the Fujimori administration. Last time he had occupied a position of political power was during the Belaunde administration, 1980-85, when he was Speaker of the Chamber of Deputies. During his long political career C Paniagua had not created any mortal enemies and could claim that he was an immaculate politician who had never been involved in any scandal and whose democratic credentials were unyielding. Exactly the type of leader that was
necessary to guarantee the investigation of all the accusations of corruption that surrounded the previous decade. In the interviews a legislator said:

Paniagua represented morality, values and ethics. Those are things that Peruvians want because they feel they have been missing for too long. They are missing from their leaders, in their homes, at work, at school. Morality is one of the greatest deficiencies.

Finally, C.Paniagua’s main disadvantage, his lack of political support in congress became an argument in his favor. Politicians aspiring to replace Fujimori in the presidential elections such as Alejandro Toledo (PP), C.Olivera (FIM), Alan Garcia (APRA) and Lourdes Flores from the Right, did not feel threatened by his presence. The small size of his party Accion Popular led to assume that in case of becoming interim president, he would become a symbolic leader with no real power.\(^8\) Since his party lacked enough technical cadres to control the main governmental agencies, he would have to recur to the other parties of the opposition or leave in their posts great part of the Fujimori bureaucrats. One of the congressmen interviewed, a member of the Independent group \textit{(transfugas)}, said “I supported his candidacy because he was a political corpse”, a gross miscalculation considering the autonomy with which C.Paniagua ruled the Executive during the following eight months.

Ironically the decision to run C.Paniagua as a candidate of the opposition had as much to do with political calculations of an unlikely group as with the personal qualifications of the contestants. The \textit{transfugas}, whose approximately twelve votes were essential for the opposition to win the office of the Speaker, ended up favoring the

\(^8\)His party, Accion Popular had obtained electoral victories in the presidential elections of 1963 and 1980, however since its replacement by the APRA government in 1985, it had not been able to gain the support of a substantial part of the electorate. With three seats in congress and an aging historical leader, Fernando Belaunde, the party did not have good chances to play an important role in the political future.
candidacy of C.Paniagua. The _transfugas_ perception was that C.Ferrero’s triumph would give free reign to the more radical sectors of the opposition. According to interviews with C.Martinez del Solar, leader of the _transfugas_, there were constant talks between her group and the parties of the opposition and once she communicated the _transfugas_’ decision to back C.Paniagua the debate ended. C. Cecilia Martinez described to me these events:

I was the _de facto_ leader of all the _transfugas_. Olivera (leader of FIM) asked me to consult them about their favorite to replace (Speaker) Hildebrandt. I called each _transfuga_. All of them preferred (c) Paniagua. This was a moment that could rehabilitate their prestige, at least in part. We did not want to make of the office of the Speaker an electoral springboard. We were not going to support any member from the parties aspiring to win the presidency. We preferred a small party like Paniagua’s Accion Popular. After we communicated our decision there was a long meeting among the members of Peru Posible. Toledo was consulted and finally he accepted.

I was afraid because I did not trust the _transfugas_. There were no guarantees of their loyalty. But I accepted the challenge and spoke on their behalf. This damaged my political career but it secured Paniagua’s triumph.

The opposition could not risk losing these votes. Without them, C.Marcenaro from P2000 stood an important chance of recovering the office of the Speaker for the government. This version is corroborated by media reports about the Independents’ reluctance to support C.Ferrero and their willingness to negotiate a scenario in which they could secure at least their personal freedom. It is also significant that the day after C.Paniagua was elected Speaker, _Expreso_ the newspaper closest to the government titled its report “_Transfugas_ Elect Valentin Paniagua.”

**The Campaign for the Office of the Speaker**

Once the parties of the opposition and P2000 selected their candidates for the office of the Speaker both C.Paniagua and C.Marcenaro made statements to the press
indicating their personal positions on how to proceed with the transition. The messages of
the candidates focused on the need of building consensus across party lines and on the
importance of acting according to the rules established by the Constitution.

C. Paniagua’s offered to recover the autonomy of the legislature as the center of
political discussion and the establishment of consensus as the principle that would guide
his political leadership. Under his leadership, the OAS’s Mesa de Dialogo would
facilitate and supplement the role of congress, not substitute it. Finally, with regard to the
vacancy of the presidency he indicated that there were already too many problems in the
country and that he would not promote the impeachment of Fujimori. Besides
C. Paniagua’s campaign manifesto, the newspapers of the day reported statements of
support from the different parties. For instance, C. Waisman, Peru Posible, characterized
him as a consensus builder, C. Cabanillas, APRA, called him “a man from the political
class who represents the lost values of moderation and wisdom,” C. Martinez del Solar,
pledged the support of the Independents (transfugas) and C. Solari, Peru Posible,
committed his party not to declare the vacancy of the presidency. Meanwhile, in the
streets of Lima, Toledo kept organizing rallies and popular protests in favor of the
democratization and requesting the resignation of Fujimori. Likewise groups of citizens
not affiliated to any party, organized spontaneous manifestations in favor of the transition
throughout the nation.

C. Marcenaro candidate of P2000 promised that he would impose a new style in the
relationship between the opposition and the majority inaugurating an “era of cordiality
and open doors.” Arguably, C. Marcenaro knew that he had very little chance of winning.
He was campaigning mostly for loyalty to his party and to president Fujimori. In an
attempt to generate a stream of public support he warned that if the opposition declared
the presidency vacant – ousting Fujimori – this could generate a power void where the
safety of the citizens would not be guaranteed. However with an opposition that was
gradually gaining prestige and the fact that Fujimori was already in Asia, these threats did
not have a significant effect.

Besides securing the votes of the remaining members of P2000, C. Marcenaro was
trying to convince the members of the Constitutional Affairs committee to pass the
Multiple District system. Despite their public pledges of support for the new system the
committee members were not willing to sign a bill that would difficult their own
reelection.\textsuperscript{9} C. Marcenaro, chair of the committee, was convinced of the need to pass the
bill in order to placate the anger of the electorate in the provinces. For the long term
functioning of Peru’s democracy it was necessary to initiate a process of decentralization
and the coming elections provided an opportunity that could not be missed.

While congress was getting ready to elect the new Speaker, the Executive branch of
government was given signals of disarray and desperation. Second Vice President
Marquez, in charge of the presidency during Fujimori’s absence, announced that the
government was evaluating to organize a new cabinet including representatives of the
opposition. This was denied by Prime Minister Salas who said that no changes would be
made until the return of Fujimori. Finally, powerful Economy Minister Bolona declared
that it was very unlikely that Fujimori would continue in office. Furthermore, in a clear
display of where the real power resided now, twenty-six legislators of P2000 demanded
the Executive to paralyze the process of privatization of the commercial ports. This

\textsuperscript{9} The disadvantages of the Multiple District for the incumbents were discussed in the
previous chapter.
motion is specially revealing because privatizations had been at the center of Fujimori’s
economic program and under normal circumstances, nobody from P2000 would have
dared to oppose them.

The suspense ended on Nov 16th when congress elected C.Valentin Paniagua as
Speaker of congress with 64 votes. C. Marcenaro obtained 51 votes and proceeded
immediately to make a concession speech recognizing C. Paniagua’s victory and
declaring democracy as the real winner of the election. Like in the case of the removal of
the Speaker, public opinion polls show that the legislature acted under the mandate of the
Peruvian people who by an ample margin agreed on the election of C. Paniagua as new
Speaker and gave bad ratings to P2000.

Table 6-4: Do you approve or disapprove the election of Valentin Paniagua as speaker?

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Lima, November 2000
Number of interviews: 512
Apoyo Opinion y Mercado S.A

Table 6-5: In general, do you approve or disapprove the performance of P2000 in
Congress?

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Lima, November 2000
Number of interviews: 512
Apoyo Opinion y Mercadeo S.A
November 16 - 19: Rebuilding Peru’s Democratic Institutions

In his inaugural discourse Speaker Paniagua presented a detailed road map to complete the transition process. His diagnosis was that Peru was going through a severe crisis of governance whose main symptom was that the people did not trust the institutions. During the Fujimori administration the government had abused and manipulated the system of checks and balances established in the Constitutions with the sole purpose of remaining in power. Paniagua framed the problem from an ethical perspective saying that the political regime was corrupt and lacked moral foundations. Despite his criticism, he reached out to P2000 by recognizing that c Marcenaro and those who supported his candidacy were animated by the same spirit of renovation as the opposition. The main objective of the message was to persuade the population to have hope on the possibility of redemocratizing the country. With a rhetoric that constantly appealed to values and ethical principles, c Paniagua promised to the legislators and the population that he would work to make of the legislature an institution that fostered and protected democracy and that could guarantee a free and fair electoral process. He ended the first part of his speech reinstating his resolve to replace the whole political class via elections stating that “the new elections will restore the people’s right to self determination and to live free of any kind of guardianship other than their own sovereignty expressed in the ballots.”

With respect to delicate issue of declaring the vacancy of the presidency, Speaker Paniagua was particularly cautious only saying that the issue should be addressed in strict accordance to the Constitution and the statute of congress. Regarding the future role of the OAS’s Mesa de Dialogo, he said that it should continue working on the points of its agenda, however, those new issues that had risen from discussions in congress, such as
the Multiple District system, should remain in the legislature. After making these
precisions Speaker Paniagua announced that the legislature would reclaim its functions of
Executive oversight and legislating that had been reduced to mere formalities during the
previous decade. Then, putting these words into action he put to the vote a number of
bills that in the next couple of hours would release the Peruvian political institutions from
the trappings created during the Fujimori administration, making them more autonomous
and establishing a legitimate system of checks and balances.

The first bill passed by congress deactivated the National Office of Electoral
Processes, ONPE, an institution that had been at the center of the controversy
surrounding the results of the 2000 election. More importantly, two bills dismissing the
Executive Commissions that controlled the Judicial Power and the Public Attorney’s
Office were passed by a majority of votes from the opposition parties and P2000. These
two Executive Commissions, in existence since 1995, monitored the functioning of the
judicial system and had been designed originally by Montesinos to subject judges and
district attorneys to his whim and to prevent any serious inquiry of the government’s
illicit activities.¹⁰

Once these measures were approved, C.Paniagua submitted to the consideration of
the Floor another motion crucial for rebuilding the constitutionality of the regime but that
would alienate part of the legislators of P2000. The bill proposed the restitution of the
three members of the Constitutional Court (Tribunal de Garantias Constitucionales) that

¹⁰Nominally, the heads of the of the judiciary and the General Attorney’s Office were the
President of the Supreme Court, and the General Attorney (Fiscal de la Nacion)
respectively. However, the Executive Secretaries of the Executive Commissions
appointed by Fujimori were in charge of the budget and the removal of judges and district
attorneys. In other words, the real power was in the hands of the Executive Secretaries
and the judiciary was under absolute control of the Executive.
had been removed from their posts by the previous congress in 1998 because they had refused to support Fujimori’s attempts to run for a second unconstitutional reelection. It was a bold move by C.Paniagua showing once more his determination to rebuild a system of checks and balances even at risk of infuriating P2000. The new Speaker’s resolution to govern by consensus did not mean that he would agree to enter into transactions and pacts that sacrificed the autonomy of the powers of the state. C. Paniagua’s expertise in constitutional affairs and his ascendance over most legislators gave him considerable discretion to decide which aspects would not be matter of compromise. The full restitution of the autonomy of Peru’s Constitutional Court - with functions similar to the judicial review exercised by the US Supreme Court - was not a subject for negotiation. The dismissal of the constitutional justices had been a clear violation of constitutional rules and was one of the original points in the agenda of the OIAS’ Mesa de Dialogo. There was even a resolution from the Inter American Court of Justice that declared that the removal of these judges was contrary to the charter signed by the member states. However, when the motion was put to the vote most legislators of P2000, including leadership figures such as C.Chavez, C.Salgado, C.Marcenaro, C.Joy Way and C.Delgado among others, abandoned the hemicycle. A few remained in their seats, C.Hildebrandt among them, but decided to abstain from voting. The motion was passed by 57 votes, a small majority.

The aftershocks of this crucial vote were felt the following days. P2000, represented by CC.Chavez, Salgado, Lozada and Marcenaro, pointed out that the decision about the situation of the constitutional justices corresponded to the Mesa not to the legislature and accused Speaker Paniagua of disrespecting the international community.
In protest for the bill, P2000 announced its withdrawal from the talks at the Mesa. In an interesting change of luck, once the opposition took control of the office of the Speaker, the Mesa de Dialogo became the last refuge for P2000. This is ironic because before the video scandal and during most of the transition Fujimori and his legislators always downplayed the role of the Mesa and questioned its legitimacy. The opposition answered these accusations – via C.Solari, Peru Posible and C.Gamarra, FIM – arguing that the political conditions had changed dramatically since Peru’s legislature had been freed from the guardianship of the Executive and therefore it was necessary to reconsider the role of the OAS.

Besides these key changes to the legislation, Speaker Paniagua encouraged the debate of several issues that he considered essential to secure the consolidation of democracy in Peru. One of them was that congress should recover its power to have the last word in the promotion of the top brass of the armed forces. According to the 1978 Constitution the armed forces sent the Senate a list of the officers to be promoted to a higher rank. The Senate had the authority to approve or reject the nominations sent by the military. This mechanism was created to secure the subjection of the armed forces to civilian authorities. However, after the 1992 self-coup, the Senate was eliminated and the 1993 Constitution did not include the function of military oversight among the responsibilities of the new unicameral congress. During the Fujimori administration, Montesinos had absolute discretion over military promotions as well as to demote those officers who challenged his authority. As a result, the autonomy of the armed forces to periodically renew its leadership cadres was substituted by a mechanism that perpetuated those who pledged allegiance to Montesinos, regardless of their professional
qualifications. Speaker Paniagua’s emphasis on this matter was very relevant for the rebuilding of a military establishment committed to the respect of democratic institutions.

Other crucial issues whose discussion in congress was promoted by Speaker Paniagua as soon as he took office were: unconditional support for the Multiple District system, reinstating the Senate and the reorganization of the committee system in order to introduce proportional representation rules for the distribution of committee Chairs among the different parties. Additionally on a gesture that showed Speaker Paniagua’s concern for matters of social justice he asked to include in the agenda of the transition a general revision of the criminal processes against people falsely accused of terrorism during the war against the subversion. During the Fujimori administration thousands of alleged terrorists were sent to prison under state of emergency provisions that denied these citizens their most basic civil liberties. By highlighting the need of repairing the abuses perpetrated against helpless citizens, Paniagua gave this issue a priority that had no precedent in Peruvian history

In just a couple days, the new Speaker assumed a role that went beyond the leadership of the transition. Paniagua had become the architect of a process of institutional reconstruction and taken important steps to heal the national honor and self respect lost after ten years of increasing authoritarianism, disregard for civil liberties and corruption. After the real-politick of the Fujimori years when only “results” were important, the political discourse emanating from the legislature pointed out to the need to rescue the values, to respect the democratic forms and to the eradication of corruption. The main tools for the reconstruction initiated by the legislature were transparency in the process of decision-making and respect for the rule of law.
Despite the catapulting effect of Speaker Paniagua’s leadership a big obstacle for the completion of the transition still remained in place: President Fujimori. P2000’s strategy to stop the legislature from ousting Fujimori was to convince the population that this “new” congress was really like the old one. C Chavez, the most outspoken legislator of P2000, said that change in leadership only meant that the group that had the capacity to rule the country arbitrarily and to be corrupt was a different one. During the highly polarized times that Peru was going through this argument was convincing for a substantial sector of the electorate. After all, the opposition had made many mistakes in recent months and the government had capitalized on them. The government and its media allies had effectively portrayed the opposition leaders as ambitious and self interested and, reminded the people, that these very politicians were the same that controlled the government in the 1980s and left Peru in a deplorable state. The ultimate success of a transition without Fujimori depended on the capacity of the opposition led by Speaker Paniagua to prove that they had enough legitimacy, and votes, to replace the elected President.

Responding to the accusations of P2000 Speaker Paniagua explained in a message to the nation that there were no topics excluded from the jurisdiction of congress as long as their inclusion was made according to law:

Peru has stopped being subject to any type of guardianship, military or from the international community, and therefore the agenda of the sessions of congress could include all the topics approved in the sessions of the Directive Council in which all political parties are represented, including the discussion of the vacancy of the presidency.

At this point in the transition, public opinion polls support the argument that the parties of the opposition led by Speaker Paniagua had accomplished their objective to turn the tide of public opinion and had obtained the backing of the majority of the
population. Polling firm Apoyo conducted a survey on Nov 19 showing that 52% of the population supported the immediate resignation of Fujimori; a dramatic increase from 42% only a month earlier (See table on chapter 4). Likewise, another poll shows that the majority of the population was convinced that the presence of Fujimori did not contribute to the process of democratic transition. This shows that the population had stopped being perturbed by the alarmist scenarios of a future without Fujimori, presented by P2000.

Table 6-6: Impact of Fujimori’s presence until July of 2001

<table>
<thead>
<tr>
<th>Alternatives</th>
<th>Contributes</th>
<th>Does not contribute</th>
<th>No Opinion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency of elections</td>
<td>40%</td>
<td>53%</td>
<td>7%</td>
</tr>
<tr>
<td>Economic stability</td>
<td>40%</td>
<td>51%</td>
<td>9%</td>
</tr>
<tr>
<td>Peru’s international image</td>
<td>39%</td>
<td>53%</td>
<td>8%</td>
</tr>
<tr>
<td>Montesinos’ Inquiries</td>
<td>37%</td>
<td>57%</td>
<td>6%</td>
</tr>
</tbody>
</table>

Lima, November 2000
Number of interviews: 512
Apoyo Opinion y Mercadeo S.A

**Fujimori Resigns in Japan**

The lack of news from Asia fueled rumors about the imminent resignation of Fujimori. The most widespread one was that Fujimori was considering running as head of the list of candidates for legislators of P2000. According to electoral regulations he needed resign to his position six months previous to the election. However, none of the leaders of P2000 had anything to say about these rumors, probably because they did not have any contact with Fujimori. On Nov 18th government-controlled newspaper *Expreso* titled its editorial column “Fujimori Must Come Back to Peru and Govern NOW” in a clear sign of exasperation with the now obvious abandonment by Peru’s chief executive.
Suddenly, on Nov 19th, second vice-president Marquez announced in a press conference that he had received a letter from Fujimori announcing his resignation and his decision to stay in Japan, the land of his ancestors.

**November 20 – 21: Destitution of Fujimori and Appointment of Speaker Paniagua as Transitory President**

After the news of Fujimori’s resignation spread, public attention turned to congress for leadership to confront the void of power. The rules for presidential succession were clearly established in the Constitution. First Vice President Tudela was the first in line but he had resigned to this post several weeks ago. The next one called to replace the president was Second Vice President Marquez, who at the moment was in charge of the presidency. Mr. Marquez lacked national prestige or leadership qualities to govern the nation. Even though he was an old ally of Fujimori, Marquez had not developed a close relationship with the legislators of P2000, the armed forces, Montesinos, the opposition or with the international actors. Furthermore he had enough political vision to recognize his personal shortcoming and the irreversibility of the transition. Thus, on Nov 20th he announced his resignation that would become effective as soon as congress designated the new constitutional president. Finally, the Constitution establishes that in the absence of the First and Second Vice Presidents, the responsibility of leading the Executive corresponds to the Speaker of congress.

Speaker Paniagua, instead of rushing a motion through congress that would appoint him as interim president, announced in a press conference an emergency meeting of congress’ Directive Council with all the representatives of the political parties to analyze the declaration of vacancy of the presidency.
Additionally, Speaker Paniagua held a separate meeting with two vice presidents of congress--C.Salgado and C.Espinoza from P2000--and the remaining representatives of the government alliance. This was a terrible time for the members of P2000 who felt deserted by their leader without any warning. The letter of resignation sent by Fujimori had already caused the resignation of seven more legislators reducing P2000’s numbers to forty-five legislators from the different factions. By talking to P2000 in a separate audience Speaker Paniagua tried to avoid a painful confrontation with the representatives of the opposition who would be relishing on the ultimate defeat of their usually arrogant competitors. Although it may not be obvious for those unfamiliar with Peruvian politics, most important leaders of P2000 were women. The ex Speaker, C.Martha Hildebrand, the three vice presidents of congress, C.Luz Salgado, C.Maria J. Espinoza and C.Carmen Lozada; and the chair of the powerful Defense committee C.Martha Chavez were by far the most devoted and combative defenders of the president during his administration. A hurt C.Luz Salgado declared in denial: “the President is not fleeing he is just moving to the sidelines”. Fujimori’s abandonment of these loyal supporters made their situation particularly difficult in the cultural context of Peru where traditional gender roles indicate that women must be sheltered from unnecessary harm. The political elite and the population perceived Speaker Paniagua’s gesture as an act of chivalry and nobility that reaffirmed his other personal qualities.

Despite the clarity of the constitutional rules for the presidential succession, a sector close to Fujimori argued in favor of First Vice-President Tudela as the natural successor of Fujimori. This position was presented in op ed articles in the daily Expreso and was based on the fact that C.Tudela had been the most voted legislator in the last
elections: “C. Tudela obtained 900,000 votes and therefore he is the most legitimate legislature, in contrast, C. Paniagua obtained only 14,000, meaning that his popular support is insignificant.” Furthermore, Expreso argued that C. Tudela’s presidency would guarantee the continuation of the sound economic policies of the previous decade and would prevent any witch-hunt against the members of the previous administration. A public opinion poll taking a few days prior to Fujimori’s resignation reflected a similar point of view in favor of Vice president Tudela among a plurality of the population. The second in the preferences of the public was Speaker Paniagua, a remarkable feat for a relatively unknown politician surrounded by many other important opposition politicians with higher levels of recognition.

Table 6-7: If Fujimori resigns or is ousted from the presidency, who do you think should govern Peru until the election of a new president?

<table>
<thead>
<tr>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resigning Vice President Tudela</td>
</tr>
<tr>
<td>Speaker Paniagua</td>
</tr>
<tr>
<td>An important person appointed by congress</td>
</tr>
<tr>
<td>Second Vice President Marquez</td>
</tr>
<tr>
<td>Other</td>
</tr>
<tr>
<td>None</td>
</tr>
<tr>
<td>No opinion</td>
</tr>
</tbody>
</table>

Lima, November 2000
Number of interviews: 512
Apoyo Opinion y Mercadeo S.A

The debate ended suddenly when C. Tudela declared: “I am not interested in the presidency, I am not going to run as a candidate in the next elections and I have already resigned to the office of First Vice president of the republic. Speaker Paniagua is a trustworthy individual and he can provide a perfectly viable leadership for the nation.”
This was another proof that the leadership of C. Paniagua had been consolidated and that all political parties, including P2000, had reached the consensus that his interim presidency would allow Peru to bridge the Fujimori administration with the new regime that would result from the elections of 2001. Likewise, other political leaders such as Alejandro Toledo, from Peru Posible and Lima’s Mayor Andrade and representatives of the international community like Gaviria, Secretary General of OAS and a spokesperson from the White House, addressed the population and asked them to remain calm.

On Nov 21, after the political parties had agreed on an agenda at the session of the Directive Council, congress assembled to designate the next president of Peru. The first point of the agenda was to accept the letters of resignations of First and Second Vice-Presidents, Tudela and Marquez respectively. The legislators accepted both resignations almost unanimously. However when the opposition moved to the next point of the agenda, to declare the vacancy of the presidency for reason of moral incapacity, most representatives of P2000 abandoned the precinct. The congressional faculty for declaring the president unfit to continue in office is included in Article 113, num 2 of the 1993 Constitution. This article does not provide a definition of moral incapacity and thus it gives congress the faculty to decide in each particular case weather a president is morally fit to govern or not. Since the constitution does not require a qualified vote to declare the incapacity of the president, congress can declare the vacancy with only half plus one of the votes of the members present. Because it does not establish any parameters to determine moral incapacity, the article leaves to the discretion of the legislators the final decision. This constitutional disposition that had never been used in Peru before this time
was the mechanism chosen by the legislators to get rid of Fujimori utilizing the very rules that he had established in the 1993 Constitution.

The opposition declared Fujimori’s moral incapacity based on two facts: The abandonment of the presidency by resigning in Japan and the violation of the autonomy of the judiciary incurred when he entered Montesinos’ apartment in October and extracted evidence relevant in a case with an open investigation. Once the matter was put to vote, it was approved by sixty two votes, nine legislators voted against the motion and other nine abstained from casting a vote. Immediately after, in accordance with the rules of presidential succession Speaker Paniagua was appointed Interim President drawing to a close a time of uncertainty in which Peru was at risk of falling into chaos. It also marks the end of the period that will be matter of the present dissertation. C Luz Salgado, P2000, vice president of congress told me: “I placed the presidential sash on (interim president) Paniagua because it was my duty and I realized that this was not our time anymore.”

In the following days, President Paniagua appointed ex UN Secretary General Javier Perez de Cuellar as prime minister and a cabinet that included members of different parties and sectors of the civil society. Likewise, rebel Lieutenant Ollanta Humala, until then in hiding in the southern Andes, put himself and his men under the new president’s orders. Then, on Nov 27 congress approved the Multiple District system. Finally, president Paniagua inaugurated a process of national moralization and investigations of the corrupt dealings that took place during the previous regime. President Toledo, elected according the schedule established during the transition, has continued the process of moralization. Likewise, in order to respond to the needs of the
provinces, a process of decentralization was initiated in 2002 with the popular election of regional governments. At the moment this work is being written Peru is still a working democracy and congress is playing a more important role in terms of Executive oversight and policy making than it ever did before.

Conclusion

This chapter presents a very mature congress whose members are committed to participate in the political game using only those rules provided by the constitution and the law. Despite the diversity of interests and the high stakes, legislators both of the opposition and P2000 realized that in order to save Peru from an even bigger crisis and to maintain their own political currency it was necessary to take measures that in the short terms would undercut their own personal interests. The most interesting case in this chapter is how P2000, the *transfugas* and the parties of the opposition with the largest numbers of members agreed on the fact that a transition lead by Speaker Paniagua would be the least painful option for everyone.

The parties of the opposition accomplished their most important goals by replacing the leadership of Fujimori, Montesinos and P2000 and by inaugurating a new era in Peruvian politics where governmental corruption is exposed and investigated. Likewise, the opposition under the leadership of Speaker Paniagua was capable to inspire the population of Peru and convince them of their legitimacy and their good intentions. As it was mentioned before, the people were afraid of a weak leader unable of conducing the country on a path of social peace and economic growth. However, Speaker Paniagua, whose selection was the fruit of a long process of consensus building, initiated the new regime in an environment of celebration and hope, essential for the rebuilding of democratic institutions. His tenure also signified the recovery of professional rules of
behavior among congressmen that substituted the undemocratic tyranny of the majority defended by Speaker Hildebrandt. As we saw in chapter 2, these informal rules of loyalty, transparency, respect for the minorities and courtesy are not written anywhere but they provide important clues about the degree of institutionalization and autonomy of a democratic legislature.

The reestablishment of democracy in Peru was a triumph of the legislature. The congress of Peru provided the set of rules established in the constitution and its statutes, the legitimacy associated to its electoral representation and its historical importance in Peruvian politics and the perfect forum for discussing the key decisions about the future of the country. However, the institutional framework would have not been enough to bring Peru back to the team of democratic nations, if so many individual legislators would have failed to respond to the needs of the country. The empirical chapters of this dissertation have shown how the legislators of P2000, when cornered by opposition, international actors or popular mobilization, always opted for moving the transition forward instead of assuming a more repressive role and derailing the transition. This behavior shows how this sector of the political elite had evolved to the point of paying more attention to long term benefits of maintaining the stability of the country than to their own self-serving goals. Likewise, the parties of the opposition, despite their diversity of opinions and interests, gave a remarkable example of what an intelligent political class is capable of accomplishing. The process of selection of Speaker Paniagua and his posterior replacement of Fujimori, who only four months before looked like the invincible leader of Peru constitutes one of the greatest victories of democracy in the modern world. Thus, congressional leadership constitutes one of the important lessons of
the Peruvian transition that should be followed closely by those scholars studying transitions in other areas of the world.
CHAPTER 8
CONCLUSIONS

Throughout this dissertation we have revisited the transition that took place in Peru in 2000. So far this document constitutes the only detailed account of all the events that took place during those seventy days that placed Peru back among the democratic nations. Thus it fulfills the important role of being a historical account that explains what happened, how it happened and why it happened. This is a contribution of particular importance for the Peruvian people and their political class as well as for those interested in the study of Peru.

However, the impact of the analysis of the Peruvian case goes beyond the borders of that nation and the scholars studying Peruvian politics. In fact this work is an attempt to bring new lights to the study of the problems associated to democratic consolidation in developing countries. By focusing on the legislature my intention has been to move the debate to the institutional aspects of transitions and to argue that strong institutions are necessary for establishing democracies that are able to survive the instability that characterizes developing societies in Latin America and elsewhere.

In these conclusions I will address several issues that were introduced in the theoretical chapters (1 and 2) and that were illustrated in the empirical chapters of the dissertation (chapters 3 to 6). Likewise I will include a few final reflections about the future of democracy in Peru and the role that the legislature has played during the three years following the transition.
Role of International Actors

One of the first issues that I want to address is the importance of the international actors and in which conditions they are able to influence a process of transition. This issue was discussed mainly in chapters 3 and 4 that explain the role of the dialogue sponsored by the Organization of American States, OAS, and the active role of the ambassador of the United States. In summary, there is no doubt that the Peruvian transition was greatly facilitated by the presence of international diplomats who constantly persuaded both the representatives of the government and the opposition to continue the talks.

Even though the threat of economic sanctions for the regime was discussed in the early moments, when the OAS mission observing the 2000 elections decided to leave Peru because there were not enough guarantees for the realization of free and fair elections, during the rest of the process the main argument utilized by the international actors was the convenience for the government and the opposition of making mutual concessions. The diplomats persuaded the Peruvian political elite to keep talking until they reached a basic agreement. The willingness of the domestic actors to engage in the process is also a sign of the interdependence among nations. No actor was willing to risk that Peru would become an international outcast. Both P2000 and the opposition parties knew that Peru’s future depended on an active agenda of participation in the community of nations. The Peruvian experience teaches that in this era of globalization interdependence and cooperation are more persuasive arguments that the threat of sanctions.

The creation of a formal setting for the discussion, the Mesa de Dialogo, was another important element of the international participation in the transition. This
temporary forum presided by an international diplomat where the delegates of the
government, the opposition parties and the civil society met to discuss the best strategy to
solve the crisis, allowed the parts to reach some basic agreements without which the
transition would have taken much longer. The Mesa fulfilled the role that Peru’s
institutional framework assigns the congress but that at that point it was unable to
perform. As the empirical chapters showed, congress was controlled by the illegitimately
obtained majority of P2000 and ruled in arbitrary fashion by the Speaker.

We have also learned about the limits of the influence of international actors and
the ad-hoc mechanisms that they can create to facilitate the dialogue. The most important
problem has to do with the lack of legitimacy of arrangements outside the institutional
framework of the country. In the case of Peru, despite the advantages of the Mesa de
Dialogo, the main criticism since the first days of the transition was that it lacked real
representation. Not only was Peru being subject to the humiliation of an international
guardianship that limited its sovereignty but also the delegates to the Mesa had been
appointed arbitrarily by the political elites without any popular participation.

The Mesa de Dialogo was successful in Peru because it played a limited role: to act
as an start up of the legislature, the only representative institution with enough legitimacy
to adopt decisions that will be respected by the population. Once congress was able to
free itself from Executive control the Mesa de Dialogo stopped being relevant. An
important lesson for future international interventions of this type is to be always on the
lookout for domestic institutions that can take over once some basic agreements have
been reached among the main political actors. Any protracted international intervention
will be rejected by the population and runs the risk of derailing the whole process of
transition. In the case of most Latin American countries, whose presidential systems provide a clear division of power among the executive, legislative and judicial branches, the legislature seems the ideal institution to lead the process of transition in case of Executive crisis.

**Separation of Powers between the Executive and the Legislature**

Another important point has to do precisely with the presidential character of Peru and with presidential regimes in general. The traditional approach advanced by scholars such as Juan Linz, and specifically for the case of Peru by Charles Kenney, is that democracy is more likely to break down where the president does not have a majority in the legislature. The logic consequence of this argument is that the best legislature for a presidential regime is one conformed by a majority of members of the president’s party that always supports him. Following this logic Kenney argues that Peru’s democracy would not have broken down in 1992 if congress had supported Fujimori.

Besides the fact that Kenney’s analysis of the role of congress in 1992 is wrong, in reality the legislature supported Fujimori almost all the time, a serious problem with this argument is that somehow removes the responsibility for authoritarianism from Fujimori, who was the outlaw, to the congress. Kenney says that the legislature was obstructionist, rigid, confrontational and tried to make everything more difficult for Fujimori and he ends up making the readers think that Fujimori was even justified in closing the congress. However, there are enough proofs nowadays that Fujimori planned his self coup way before 1992 and that no matter how subservient the legislature was he would have closed it anyway. Furthermore, since I was part of the staff of the Peruvian Senate from 1990 to 1992, I personally observed the way in which legislators who had opposed Fujimori in the electoral campaign of 1990 provided their specialists, proposals, expertise and their
votes in congress to support Fujimori’s efforts to solve the economic crisis and defeat the internal subversion.

Additionally, there are more important objections to this argument, than Kenney’s historical mistakes, from the viewpoint of democratic theory. First, to say that the legislature is supposed to support the president always is to cripple the entire way that a presidential system is supposed to function and to suggest that a presidential system should function like a parliamentary system. A parliamentary system has others forms of self correction, like the ability to change the executive via a vote of no confidence and call a new election. A presidential regime does not have those mechanisms so to insist that it functions in a handcuffed manner is to encourage authoritarianism. Presidents in Latin America already feel entitled by a long tradition of president-centered politics to concentrate all the power in their hands and dismiss legislatures as obstacles for their policies. It is time to promote the presence of checks and balances and to incentive a political behavior based on bargaining and consensus building. Additionally other nations with presidential systems, particularly the Unites States, manage to tolerate divided government without having democratic breakdowns. If other nations can do it, so can Peru. The transition in Peru should be seen as a success of presidential systems to get rid of a bad Executive without throwing the whole institutional setting in disarray. In Peru’s presidential regime congress had its own mandate, based on the popular vote, and therefore the failure of one of the branches of power did not produce the collapse of the whole system.

**Flexibilization of Presidentialism**

One of the main criticisms that authors such as Linz make to presidentialism is its rigidity. Constituencies in presidential regimes have to wait until the terms of their
executive chiefs have been completed. In many countries, particularly in new
democracies, economic crises develop at mid term and even congressional elections are
held and thus change the distribution of forces within parliament, but unlike in a
parliamentary regime where shifts in power are reflected in the creation of a new cabinet,
it is not possible to change the course of government. Systems in which there are no mid
term elections, like Peru, are even more dangerous because a government whose policies
are failing but that still has a hold of the majority in the parliament can continue
promoting those policies in the face of widespread opposition.

In presidential regimes ineffective governments stay in power until the realization
of elections in the pre-established dates. It is not possible to replace presidents at any
point like in the case of parliamentary regimes. Because of this, essential time is lost and
problems that could be corrected rapidly may become even more acute and difficult to
solve. Likewise, the prestige of the presidents at the end of their terms in most cases is so
low that ends up damaging the chances of their political parties to obtain an adequate
level of representation in the following elections.

Due to these problems presidential systems have been rethought in recent times.
Sartori indicates how several constitutions in Latin America, designed after the military
regimes of the 1970s, tried to create mechanisms that would decrease the chances of
deterioration of the prestige of the President. Since the existence of a fixed term was
essential to the nature of presidentialism some of the new constitutions, among them the
Peruvian constitutions of 1978 and 1993, created the figure of the President of the
Council of Ministers. In theory this president of the cabinet would play a role similar to
the Prime Minister in parliamentary regimes. The president, still the central figure of the
system, would be the one appointing the president of the cabinet, and for the most part would remain in the sidelines, providing the general guidelines of policy and acting as an arbiter in case of conflict among the ministers. In case of a crisis, generated by external events or by the implementation of inadequate policies, the president of the cabinet would take the heat and if things came to worse, the president could replace him/her with another political leader that would make the necessary corrections. Acting in this manner, the president’s prestige would remain intact until the end of his/her term.

However, in Peru, the president of the council of ministers has in very few occasions assumed a role autonomous from the President. The strong personalities of presidents Belaunde, Garcia and specially Fujimori has prevented any of their cabinet leaders to become authentically independent personalities. Accordingly, in each one of these administrations, the presidents have been held responsible for the economic failures of the firsts two regimes and for the rampant corruption of the last Fujimori administration. It is safe to say that the figure of the President of the Council of Ministers has not played the role that the constitutional engineers predicted. Notwithstanding, in contemporary Peru the Toledo administration is going through a very difficult time to maintain the approval rate of the president above 10% and one of the strategies that is being utilized to overcome this problem is to give the President of the Council of Ministers increasing responsibilities in the conduction of government. It is still too soon to evaluate if the strategy will bear fruit and to dismiss this figure created with the express intention to solve one of the problems associated with presidentialism.

Interestingly, recent events in the region have shown that there are other mechanisms that confer elasticity to presidential mandates and that, as the North
American literature shows, institutions tend to adapt to changing scenarios. In the case of Peru, a mechanism incorporated in the 1993 Constitution, whose main objective was to indicate the cases in which the presidency is declared vacant, has worked unintentionally as an escape valve from the rigidity of presidentialism. This article indicates five circumstances in which the vacancy of the presidency may be declared. One of them, referred to moral incapacity is surprisingly vague. Instead of providing a definition, the constitutional framers opted for delegating in the hands of the legislators the responsibility to declare in each particular case if a president is morally fit to govern.

Since the constitution does not make any mention about a qualified vote to declare the incapacity of the president, it is possible for congress to declare the vacancy of the president with the majority of the votes of the members present. As we saw in the last chapter of this dissertation, this was the article utilized to declare the vacancy of the presidency in 2000. Thus, this article has become a tool for the removal of a president that has stopped enjoying the trust of congress, whose effects are very similar to a vote of no confidence that a Prime Minister could receive in a parliamentary regime.

In June 2004 congress approved a bill that requires a qualified majority to declare the vacancy of the presidency. This change responds to president Toledo’s growing weakness and the need to provide the presidency with an “armor” from this mechanism that it always existed but had never been used by congress before 2000. The argument to increase the protection was that removing a president who had become widely unpopular was not the original objective of this article. Peru’s Constitutional Court recommended the change and it was approved by a small majority of votes in parliament. Despite their
character of permanence, institutions are dynamic and require small adjustments to changing situations.

**Peru’s Legislature: Strong or Weak?**

In 2002, when I surveyed congressmen in Lima, every respondent answered positively to the question: Do you think the power of congress has increased? Likewise, when asked Do you think congress has enough power *vis a vis* the president? 73% answered Yes. These responses may sound puzzling because there have not been any institutional changes to the legislature since the 1993 Constitution that eliminated the Senate, reduced the number of representatives and swept away several functions of the legislature. In other words, I was asking questions about the same institution that was flat on its back during most of the Fujimori administration.

The optimism of the legislators responds to two related factors. First, as this dissertation shows, the transition of 2000 was in great measure a success of a legislature that was able to free itself of the authoritarian cuffs imposed by Fujimori, organize an exit plan in tune with the opinion of the population, convince a majority of congressmen to support it and provide a temporary president who was able to organize free and fair elections. Hence, these accomplishments have left among the congressmen a feeling of empowerment that is reflected in the results of my survey.

The second factor that accounts for the positive responses is that despite the reduction of faculties included in the 1993 Constitution, the congress of Peru continues to be institutionally strong *vis a vis* the president. Since 1933 the legislature has the capacity to interpellate the ministers and also to issue a vote of no confidence forcing the president to replace his/her cabinet. However, the possibility of the legislature to exercise its power depends on the existence of a democratic regime where congressmen votes are not
bought by money provided by obscure intelligence advisors, or where congressmen of the
opposition are not threatened by defamatory media campaigns or by bogus accusations in
an Executive controlled judiciary. In other words when studying the relative institutional
strength or weakness of a legislature in places like Latin America it is necessary to make
a closer analysis of the general outlook of a regime. From 1992 to 2000 the congress of
Peru was for the most part ineffective, other than to support Fujimori’s politics, not
because of institutional failures but because its autonomy was seriously compromised by
an overpowering executive.

This dissertation utilizes an institutional approach because it provides the best way
to understand to success of the transition particularly when examining the role that the
different branches of the state played during the transition. Utilizing the institutional
characteristics of the presidency, the judiciary, the political parties, the armed forces and
above all, of the legislature, it was possible to explain how Peru was able to bridge the
crisis generated by the announcement of Fujimori that he would leave power, and to
deliver a much better regime where personal liberties are respected and there are more
limits to the power of government. However, this dissertation was written having a great
awareness of the limitations of institutions in places like Peru where constitutions are
constantly rewritten and the approval rate of institutions and political leaders in general is
consistently low. Here, institutions have a long way to go before they obtain the levels of
legitimacy and stability that characterize them in the consolidated democracies. Thus,
whenever we evaluate the strength of Peru’s or of any developing democracy institutions,
we must identify the historical context in which that judgment is made and provide a
political context based on the degree of democracy existing at the time. These institutions
have been designed to work in a democracy and whenever the constitutional rule is interrupted or significantly affected, institutions like the congress and the judiciary, will become helpless and objects of Executive manipulation.

**The Role of Pacts and the Importance of the Opposition**

Chapter 1 discusses one of the most important theories about democratic transitions, Terry Karl’s notion that pacts are the best way to facilitate democratic politics. Pacts were traditionally successful because they were more likely to convince the authoritarian regime to exit by offering guarantees. The analysis of the events that took place during the Peruvian transition shows that pacts are not a necessary condition and that in certain circumstances it is better to avoid them.

The political elite in Peru, after the video-scandal that lent credibility to many accusations of governmental corruption that the oppositions have been making during the last years, lacked credibility among the population. To a great extent we could say that the events leading to Fujimori’s reduction of his term had an inherent moral character. Peru was not going through a particularly difficult economic situation and the country enjoyed acceptable levels of social stability. The main task of the political class was to regain legitimacy and recover the citizens’ respect. This required above all that every measure taken after Fujimori’s announcement was surrounded by the utmost levels of transparency. Historically elite pacts have included arrangements that secured the survival of all the intervening parts. In the case of Peru this was not possible because it was necessary to investigate and to “clean up” the political system in its entirety. The last thing that politicians could do is to enter into a secretive agreement that gave the appearance of a quick fix in which those who were involved in cases of corruption and violations of human rights could go unpunished.
Attempts to organize pacts took place at several times during the transition. One of them involved the armed forces attempt to obtain a blanket amnesty for its members and it was vigorously rejected by the political class. Another attempt took place at the Mesa de Dialogo during the discussions about the electoral system attempting the creation of a Mixed System including both single and multiple district rules. This attempt also failed and ended up sealing the fate of the Mesa de Dialogo as a forum for the generation of consensus. After this failed attempt congress became the only place where these decisions could be taken.

The fact that Peru in 2000 had a recently elected legislature, even though one whose legitimacy was highly questioned, differentiates Peru from classic authoritarian regimes. During the military regimes that ruled Latin American countries in the 1970s the state had only one head, the military leader or a junta. His authority for the most part was based on the support of military forces. The opposition on the other hand was represented by those leaders who were capable to articulate an alternative discourse and who proclaimed the need to have democratically elected rulers. The legitimacy of the opposition however was not institutionalized and had to be exercised through informal channels such as street rallies and demonstrations and a few clandestine media outlets able to distribute the opposition’s message. Peru in 2000, like many other contemporary regimes that scholars call semi democracies, did have a set of institutions, particularly an independently elected legislature, that provided a formal channel for the resolution of the crisis and the reestablishment of constitutional rule. Pacts like those advanced by Karl were not necessary because the legislature provided the mechanisms and authentically representative actors to arrive to a solution. In Peru there were negotiations among elite
groups but in the vast majority of cases they took the form of parliamentary negotiations. The main participants on these agreements were popularly elected representatives and the negotiations were open and transparent. Likewise, the main arguments for the different positions were always presented to the population through newspapers and radio and television stations. The truth of the matter is that pacts were not necessary in Peru because there was a legislature. Negotiation, compromise, dialogue and transparency are the job of congress and their reasons for existing.

Furthermore, Shapiro warned that one of the problems associated with pacts was the lack of a political opposition. By designing a power sharing agreement that gives every powerful actor an stake in government the transition eliminates one of the essential institutions of democracy. The resulting government is simply an elite pact that is not really democratic. In Peru, the opposition never ceased existing. At first it was constituted by all those parties that had obtained the majority of seats in congress and that wanted to correct Fujimori’s authoritarian tendencies. Throughout the transition, those groups that we could denominate the opposition shifted several times and in the end the opposition was constituted by the supporters of Fujimori. There were multiple agreements during the transition and the most crucial decisions, such as the constitutional amendments were supported almost unanimously by the representatives of all political parties, however there was also a great deal of disagreement that is the clear signal of the presence of an opposition. Clear examples of the diversity of opinions within the legislature discussed in this dissertation are the censure of Speaker Hildebrandt, the election of Speaker Paniagua and the declaration of presidential vacancy by moral incapacity, among others. Each one of these agreements involved a vote that was won by a small majority. The existence of
these different points of view and at the same time the general agreement to respect the rules of parliamentary procedure guaranteed that the following elections in 2001 were an authentic exercise of democratic politics.

The transition in Peru was characterized by its transparency and for marking the beginning of a period of investigation of governmental corruption that put in jail a large number of members of the political elite. Likewise, the resulting party system contained a number of groups that opposed the government and that offered an alternate set of leaders to rule the country in case the present administration fails to improve the living standards of the population.

**The Providential Video: Reflections about *Fortuna* and *Virtu* in the Peruvian Transition**

It is difficult not to overestimate the impact of the video that provided irrefutable proof of the corruption of the Fujimori administration. Without it, arguably the transition would not have taken place and Fujimori would have continued in power, maybe until now. Its discovery was a huge stroke of luck for an opposition until then unable to undermine the solidity of the regime. This fact makes necessary to reflect on the role of fortune and good luck (or bad luck if we approach it from Fujimori’s viewpoint) in the transition and more broadly in the way political affairs are conducted in Peru.

Machiavelli devoted most of his writings to study the craft of politics and the characteristics that an effective ruler, the Prince, must have to stay in power. For him the Prince must be a virtuous man who takes action, anticipates and exhibits resolve, shrewdness and aptitude. Fortuna that means luck or destiny is one of the main dangers the Prince must confront. According to Machiavelli a Prince must assume that serious contingencies such as natural catastrophes, plagues, international threats, and so forth,
will take place and they will break havoc among the citizens unless the rulers are prepared to confront them. *Virtu*, prowess, allows the ruler to exploit Fortuna. In order to develop *Virtu*, rulers must have a long-term vision and gain wealth and glory that are the best ways to obtaining the support of the people. In Machiavelli’s words “The Prince must seize *Fortuna* by the throat and she must be beaten into submission.”

If we use Machiavelli’s lens to approach the behavior of the Peruvian legislators, and the political class in general, we will perceive that the rulers of the country have not taken the steps necessary to guarantee the victory of *virtu over fortuna*. Some of the problems to control *fortuna* have to do with structural conditions such as the highly inegalitarian socioeconomic structure of the country, a sense of political exclusion that affects the majority of the population and the absence of a class consensus among workers and capitalist like the compromises that laid the ground work for stable democracy in the Western nations. There are other problems derived from institutional aspects that have been addressed by this dissertation such as the tension between the executive and the legislature and the lack of strong political parties. Presidents justify their actions, and specially their tendency to ignore congress, by arguing that an immediate measure is necessary and that the legislature is slow and incompetent to address a particular matter. Congress, frustrated by its lack of relevance in policy making in a system dominated by an imperial president, turns to its powers of investigation and interpellation to oversee the government that in term portrays the congressmen as a negative force, self interested and obstructionist.\(^1\) Finally there is a strong tradition of

resignation to the power of *fortuna* over the lives of the citizens that generates a passive
attitude reflected in popular sayings such as *Dios Proveera* (Sp. God will provide). This
attitude is also reflected in the long standing tradition of Peruvian politicians blaming
things out of their control (e.g. El Nino, a cholera epidemic, the price of copper, the IMF,
Bush and international conspiracies, among others ) for their failure to do a decent job.

In Peru it seems that Macchiavelli’s warnings are not paid enough attention. The
democratic leaders have not confronted the problems mentioned in the previous
paragraph and have not developed adequate levels of statecraft and political timing.
Furthermore, the politicians count on Fortuna’s good side, the side that can help them to
solve a crisis or a desperate situation - like a video showing Montesinos bribing a
congressman on behalf of Fujimori - but they are not prepared for its ugly side.
Machiavelli argued that Fortuna had a feminine nature, that it was whimsical and given to
mood swings, and therefore could not be trusted. An effective politician, a congressman
or an executive chief, has to be skeptical and must remain unaffected by the reversals of
fortune. More importantly, to overcome the unexpected contingencies of government,
such as an earthquake, a fall of the international prices of commodities, an aggressive
neighbor and even an ambitious individual who wants to concentrate power, the political
class – the modern Prince – must make previsions. Thus, it is important to have an
educated citizenry, whose minimal needs are covered and who feels part of the decision
making process through political parties, unions or other organizations of the civil
society. And, we need strong institutions.

**The Need for Stable Institutions and Their Role in Regulating Conflict**

One of the basic assumptions of this dissertation is that democracy is safe only in
polities that have strong institutions that represent the common interests of all citizens. In
semi-democratic regimes--hybrid systems that blend democratic and authoritarian elements in a relatively stable combination, such as Peru during the Fujimori administration--institutions other than the executive are weak and unable to consolidate. The executive itself even though it is very powerful and concentrates all the powers, lacks institutional strength because it is founded on the individual characteristic of the leaders and not in the legitimacy derived from adhering to the functions and limits imposed by the constitution to the office of the President.

However, the Peruvian story shows that there is a middle ground between the absolute lack of institutions and the consolidated institutions of the Western democracies, and that to have a nascent and imperfect institution is much better than not having any institution at all. The Peruvian legislature, despite its lack of autonomy during the Fujimori administration, had the institutional potential to assume a predominant role. The members of the legislature were authentically representative, there were clear rules of procedure and the functions of the legislators were clearly determined by the constitution and the law. In other words it had enough safeguards to guarantee that its behavior would respond to the interests of the majority of the population and not only to those of the dictator in charge of the executive or of a single group.

The process of transition narrated and analyzed in the present document illustrates the importance of paying attention to the institutional framework in place, no matter how incipient or subordinate to the executive or to the so called “factic powers” of the armed forces or the economic elites it may appear. Institutions such as the Peruvian legislature, that enjoy a permanent character and that derive their legitimacy from popular representation and from their adherence to rules and procedures in their activity cannot be
ignored or promptly dismissed from any scholarly analysis. The Peruvian story shows clearly how the legislature was able to recompose its democratic character in a very short period of time, just seventy days, and to provide a new leadership for Peru. The process was arduous and marred by uncertainty but the rules of procedure and the limits of acceptable behavior were clearly established and most importantly, the legislators acted within the frames provided by the legislature. There is a stark contrast between the “messy” marches and counter marches described by O’Donnell and Schmitter in the 1970s and the expedient way in which Peru recovered its democracy twenty years later in 2000.

It is clear that many things have changed since the 1970s. In the international realm, the Cold War is over and the United States supports full heartedly the implementation of democratic regimes in the area. Likewise, the armed forces of Latin America for the most part have lost their role of guardians of the state and do not feel entitled to rule the civilian population. Finally, with the triumph of the capitalist ideology and the rule of markets in most areas of Latin America, the economic elites do not feel threatened by the possibility of losing their properties and the control of their business, and therefore they will not boycott every attempt to implement democratic polities. However, all these positive developments have not have a major impact in consolidating democracies in most countries in Latin American nor prevented several of these nations to slide dangerously into serious political instability and semi authoritarian regimes.

The big difference between Peru in the 1970s and Peru in 2000 was that in the latter period Peru had an institutional framework in place established by the Constitution. This political structure provided the checks and balances to avoid the abuse of power by
the President. However, Fujimori, courting the support of a population frustrated by the previous regimes incapacity to defeat inflation and the threat of the Sinning Path, in 1992 began a process of deactivation of the checks and balances. Thus, the legislature, the judiciary and the constitutional court had been reduced into submission by means of pressures, bribing and corruption. The democratic opposition tried to expose Fujimori’s true colors for a long time, accomplishing part of its objective when it won the majority of seats in the 2000 election. However, only when the video of the bribing of a legislator was broadcasted, it was possible to articulate a plan to reorganize Peru’s democracy.

The lesson for the future is the following: reinforce the institutional checks and balances particularly the congress to avoid a future situation where the President may overpower the institution. So far, the Peruvian legislature has been very successful to accomplish this. As I mentioned before, my survey of legislators shows that they feel that congress has enough power vis a vis the Executive. The fact that the President’s party has only 40% of the seats in congress and needs the support of coalition partners contributes to increase the political weight of the legislature. Furthermore, without entering into major detail, the legislature has been crucial in the last three years to monitor the conduction of government and specially to denounce any appearance of corruption and misbehavior of any member of the Executive. On the other hand, the Peruvian congress confronts a huge challenge: to establish a real link between civil society and the political parties represented in congress. Only when a majority of Peruvians sees congress as the main area for the resolution of the basic conflicts affecting them the legitimacy of the institution will increase and we will be able to start talking of democratic consolidation in Peru.
The information contained in the empirical chapters of this dissertation was compiled during my field trip to Peru in 2002. The methodology employed included archival research, in depth interviews with political elites, participant observation, and a survey of legislators.

For the chronology of the events I performed archival research at the Library of Congress of Peru and the National Library of Peru. I had access to the transcripts of all the sessions of the Floor, the committees and the Permanent Committee of congress that took place during the period under study. Likewise I researched newspapers and political magazines from the time. Particularly useful to obtain independent information were the daily newspapers *La Republica, El Comercio* and the weekly magazine *Caretas*. Even though part of the population saw them as the “opposition media”, these outlets tried to uphold the principles of clean and objective journalism in a context were the government was openly aggressive and confrontational. For the more “official line” I utilized the daily newspaper “Expreso”. All four outlets were based in Lima and had nation wide circulation. Many of the quotes included in the text of the empirical chapters came from declarations made by the legislators to the media. Both the newspapers and the transcripts of the sessions of congress are now available on the World Wide Web.

Close to forty in-depth interviews were conducted in Lima also in 2002. I interviewed congressmen who had participated in the events discussed in this work, from all different parties of the political spectrum. I also interviewed congress personal
particularly professional aides who had been involved in the process of transition. They provided valuable information that the legislators did not know or wanted to share with me. I had the advantage of having worked for the Peruvian congress between 1990 and 1992 and from 1996 to 1998 and knew many people who provided me confidential information. The fact that during my first period I worked for a congresswoman from the opposition, and that during the second one I worked with legislators from P2000 helped to open up the doors of both sides of the process. The main themes of the interviews were related to the role of congress during the Fujimori administration, its impact on the process of transition, the importance of the international actors and the process of selection of c Paniagua as Speaker and leader of the opposition. These basic themes derived in many other questions that gave me further elements to interpret the transition.

I was able to obtain a researcher pass to enter congress at anytime and this gave me the possibility, not only to talk to politicians in their offices and the halls of parliament, but also to observe the functioning of the institution. I visited the offices of the individual legislators and the committees. I saw that they had adequate infrastructure in terms of enough space, several telephone lines, fax capabilities, photocopies, several computers per office, all of them connected to the internet and in general perceived an institution with adequate resources to fulfill its mission. I also observed that the legislature is considered as a center of policy making in Peru and as a result it is the epicenter of many rallies and public demonstrations. Likewise, individual citizens fill that the legislators should listen to their claims and are able to help them, and in consequence, every congressional office devotes time to attend constituency requests. The day-to-day affairs of congress are managed by the office of the Oficial Mayor, a non-elected bureaucrat
with ample experience in legislative and administrative functions. The general environment of the Peruvian congress is solemn and, contrary to the common-held belief; the institution also projects an image of efficiency and hard work.

For the survey of legislators I tried to find the mailing addresses of all one hundred and twenty congressmen who were in office at the time of the transition. Despite continued, and ultimately failed, attempts to persuade the Oficial Mayor to give me the list of addresses, in the end I had to try to trace them on my own. I was able to obtain seventy addresses, half of them corresponded to congressmen who had been reelected and therefore had offices in congress. I mailed the surveys and was able to obtain fifteen responses, 13% of the total number of congressmen. Despite the small size of the sample I did have an almost equal number of responses from legislators from the opposition and from P2000, from legislator reelected and those who were not reelected as well as a variety in the number of years they had served as legislators. In the following pages I present the results of the survey that had been utilized throughout the text of this dissertation and a copy of the questionnaire sent to the congressmen (Spanish version)

Survey of Legislators

Number of responses: 15
Lima, July – September 2002

Where did you get most of your votes?

<table>
<thead>
<tr>
<th></th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mostly in Lima</td>
<td>11</td>
</tr>
<tr>
<td>Mostly in the Provinces</td>
<td>3</td>
</tr>
<tr>
<td>Equal</td>
<td>1</td>
</tr>
</tbody>
</table>

For which party?

<table>
<thead>
<tr>
<th></th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Opposition</td>
<td>8</td>
</tr>
</tbody>
</table>
Government & 7 &

Number of years in office?

<table>
<thead>
<tr>
<th>Year Range</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-2 years</td>
<td>8</td>
</tr>
<tr>
<td>7-9 years</td>
<td>3</td>
</tr>
<tr>
<td>More than 10</td>
<td>4</td>
</tr>
</tbody>
</table>

4) Were you reelected?

<table>
<thead>
<tr>
<th>Option</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>8</td>
</tr>
<tr>
<td>No</td>
<td>7</td>
</tr>
</tbody>
</table>

5) Do you think the power of congress has increased?

<table>
<thead>
<tr>
<th>Option</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>15</td>
</tr>
<tr>
<td>No</td>
<td>0</td>
</tr>
</tbody>
</table>

6) Do you think congress has enough power vis a vis the President

<table>
<thead>
<tr>
<th>Option</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>11</td>
</tr>
<tr>
<td>No</td>
<td>4</td>
</tr>
</tbody>
</table>

7) Rank in order of importance the duties of a legislator

<table>
<thead>
<tr>
<th>Duty</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oversight</td>
<td>2</td>
<td>6</td>
<td>7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>National Representation</td>
<td>8</td>
<td>5</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>District Representation</td>
<td>1</td>
<td>4</td>
<td>8</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Legislate</td>
<td>8</td>
<td>3</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Protect themselves</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>13</td>
</tr>
</tbody>
</table>

8) Regarding the Mesa de Dialogo, which of the following statements is closest to your own opinion

<table>
<thead>
<tr>
<th>Statement</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transition would have not been possible without it</td>
<td>2</td>
</tr>
<tr>
<td>Facilitated coordination but transition would have taken place anyway</td>
<td>10</td>
</tr>
<tr>
<td>Limited role, the main decisions were made by congress</td>
<td>1</td>
</tr>
<tr>
<td>Negative role because it try to substitute congress</td>
<td>2</td>
</tr>
</tbody>
</table>

9) Regarding the role of the US, which of the following statements is closest to your own opinion. You can choose more than one option.

<table>
<thead>
<tr>
<th>Statement</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsible for the fall of Fujimori</td>
<td>1</td>
</tr>
<tr>
<td>Collaborated with the opposition to get rid of Montesinos</td>
<td>3</td>
</tr>
<tr>
<td>Genuinely concerned with fostering democracy</td>
<td>8</td>
</tr>
</tbody>
</table>
Generated international pressure on Fujimori to dialogue. 8
Violated Peru’s national sovereignty 1

10) Mark the degree of importance that each one of the following issues had for the transition:

<table>
<thead>
<tr>
<th>Issues</th>
<th>Importance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Very Important</td>
</tr>
<tr>
<td>Protests and demonstrations</td>
<td>6</td>
</tr>
<tr>
<td>Divisions within P2000</td>
<td>2</td>
</tr>
<tr>
<td>Constitutional Amendments</td>
<td>8</td>
</tr>
<tr>
<td>Abrogation of Anti Alan Law</td>
<td>2</td>
</tr>
<tr>
<td>Censure of the Speaker</td>
<td>9</td>
</tr>
<tr>
<td>Declaration of Presidential vacancy</td>
<td>9</td>
</tr>
<tr>
<td>Creation of Multiple District</td>
<td>2</td>
</tr>
<tr>
<td>Military Rebellion in the South</td>
<td>2</td>
</tr>
<tr>
<td>Video Kouri-Montesinos</td>
<td>14</td>
</tr>
<tr>
<td>Amnesty for the military</td>
<td>1</td>
</tr>
</tbody>
</table>

Encuesta Congresistas Periodo 2000-2001 (Spanish)

Considera usted que obtuvo la mayoría de sus votos en: (marcar con X).
Mayormente en Lima
Mayormente en Provincias
Aproximadamente igual cantidad de Lima y Provincias
No se

2) Por cuál partido o movimiento?

______________________________

3) Cuánto tiempo ha sido miembro del Congreso?

__________ años

4) Ha sido usted reelecto/a?
Si _________ No _________

5) Tiene usted familiares o parientes que hayan sido miembros del Congreso en el pasado?
Si _______   No _______

7) En su opinión, ha aumentado el poder del Congreso frente al Presidente de la República en los últimos cinco años?
   Si _______   No _______

8) Considera usted que en la actualidad el Congreso tiene suficiente poder en comparación con el Presidente de la República?
   Si _______   No _______

9) Por favor enumere en orden de importancia (siendo el 1 el más importante y el 5 el menos importante) los siguientes deberes de un congresista:

   Fiscalizar o balancear el poder del Presidente   ______
   Representar al pueblo peruano en su conjunto    ______
   Representar una provincia o departamento      ______
   Dar leyes                                     ______
   Proteger sus propios intereses                ______

10) Algunos dicen que “se puede confiar en los demás” mientras que otros afirman que “es mejor tener cuidado y no confiar demasiado”. En términos generales, que opina usted? (ponga una X al lado de una de las siguientes opciones)

   Se puede confiar en los demás
   Es mejor tener cuidado y no confiar demasiado

EN RELACIÓN A LOS EVENTOS QUE TUVIERON LUGAR ENTRE SEPTIEMBRE Y NOVIEMBRE DE 2000, A PARTIR DE LA DIVULGACIÓN DEL VIDEO EN EL CUAL APARECÍAN EL CONGRESISTA KOURI Y EL ASESOR VLADIMIRO MONTESINOS, POR FAVOR ABSUELVA LAS SIGUIENTES PREGUNTAS:

11) Respecto al rol de la Mesa del Dialogo promovida por la OEA, cual de las siguientes afirmaciones corresponde más a su opinión: (ponga una X al lado de una de las siguientes opciones)

   Sin la presencia de la Mesa de Diálogo el proceso de transición no habría sido posible
   La Mesa de Diálogo facilitó las coordinaciones pero la transición se habría producido de todas maneras
   La Mesa de Diálogo tuvo un rol limitado, las decisiones principales fueron tomadas por el Pleno del Congreso
La Mesa de Diálogo jugó un rol negativo al intentar sustituir al Congreso

12) En líneas generales, considera usted que la intervención del gobierno de Estados Unidos - vía el Embajador Hamilton y los comunicados de la Secretaría de Estado - apoyando la transición a un nuevo régimen: (ponga una X al lado de UNA de las siguientes opciones)

Es responsable del fin del régimen del Presidente Fujimori.
Colaboró con la oposición a fin de deshacerse de Montesinos.
Estuvo motivada por un afán de fomentar la democracia en el continente
Creó un ambiente internacional propicio que forzó al gobierno a dialogar con las fuerzas opositoras.
Constituyó una violación de la soberanía nacional del Perú.

13) A continuación usted encontrara una serie de temas que fueron materia del debate político entre Septiembre y Noviembre de 2000. Indique el nivel de importancia que en su opinión cada uno de ellos tuvo dentro del proceso que culminó con la juramentación de Valentín Paniagua como Presidente Transitorio.

**INSTRUCCIONES:**
Marque en cada fila con un X el grado de importancia que en su opinión corresponda a cada tema.

<table>
<thead>
<tr>
<th>Temas</th>
<th>Muy Importante</th>
<th>Importante</th>
<th>Menos Importante</th>
<th>Poco Importante</th>
<th>Mínima Importancia</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marchas y protestas en las ciudades del país</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Divisiones al interior de la Alianza Perú 2000</td>
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<td></td>
<td></td>
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<tr>
<td>Modificaciones constitucionales que recortaron periodos presidencial y parlamentario</td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>Derogatoria de la Ley Anti-impunidad / Anti-Alan</td>
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</tr>
<tr>
<td>Censura de la Mesa Directiva del Congreso</td>
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<tr>
<td>Declaración de Vacancia del Presidente</td>
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<td></td>
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<tr>
<td>Creación del Distrito Electoral Múltiple</td>
<td></td>
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<td></td>
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<tr>
<td>Rebelión de Ollanta Humala en el Sur</td>
<td></td>
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<tr>
<td>Difusión de los primeros VladiVideos</td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Amnistía para las FFAA por lucha contra narcotráfico y anti-subversión</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
LIST OF REFERENCES


BIOGRAPHICAL SKETCH

Julio Javier Aguayo was born and raised in Peru. He obtained a law degree from the Pontifical Catholic University of Peru in 1989. He worked for the Senate of Peru until President Fujimori’s self-coup of 1992 that banned the institution. Then, Mr. Aguayo worked for the Peruvian Internal Revenue Services for a year. In 1993 he won a Fulbright scholarship to pursue a Master of Arts degree in political science at the State University of New York at Buffalo. In 1995 after concluding the program, he went back to Peru and worked as a congressional aide for the committees of economy and small business of the Peruvian Congress. In 1998 Mr. Aguayo moved to the United States and began his doctoral studies at the University of Florida that concluded successfully in 2004.

Mr. Aguayo’s work is in the area of comparative politic, particularly the study of democracy and institutions in Latin America.