

[REDACTED]
n/a

Case Number: 200102877

[REDACTED] PTQ7179

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ACTION WHA-00

INFO	LOG-00	NP-00	AID-00	ACQ-00	CIAE-00	INL-01	DODE-00
	ANHR-00	SRPP-00	DS-00	EB-00	VC-00	H-01	TEDE-00
	INR-00	IO-00	LAB-01	L-00	VCE-00	AC-01	DCP-01
	NRRC-00	NSAE-00	NSCE-00	OIC-02	OMB-01	OPIC-01	PA-00
	PM-00	PRS-00	ACE-00	P-00	SP-00	IRM-00	SSO-00
	STR-00	TRSE-00	USIE-00	R-00	PMB-00	DSCC-00	PRM-01
	DRL-02	G-00	SAS-00	/012W			

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FM AMEMBASSY LIMA
TO SECSTATE WASHDC IMMEDIATE 4772

[REDACTED] SECTION 01 OF 03 LIMA 003397

E.O. 12958: DECL: 06/07/05
TAGS: PREL, PGOV, PHUM, PE
SUBJECT: OAS SPECIAL COMMISSION: SUGGESTED OPTIONS AND
RECOMMENDATIONS FOR STRENGTHENING DEMOCRACY IN PERU

REF: LIMA 3278

1. (U) CLASSIFIED [REDACTED] BY AMBASSADOR JOHN R. HAMILTON FOR REASONS 1.5B AND D.
2. (C) INTRODUCTION AND SUMMARY: THE HIGH LEVEL OAS MISSION TO PERU WILL FACE THREE ESSENTIAL PROBLEMS WHEN IT ARRIVES TO FULFILL ITS WINDSOR MANDATE. INSTITUTIONALLY, DEMOCRACY AND GOOD GOVERNANCE IN PERU HAVE BEEN HINDERED BY THE LACK OF [REDACTED]

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EFFECTIVE CHECKS AND BALANCES ON THE EXERCISE OF EXECUTIVE POWER. THE ABSENCE OF BASIC CHECKS ON EXECUTIVE POWER, IN TURN, HAS PERMITTED THE FUJIMORI ADMINISTRATION TO INTERVENE AND MANIPULATE THE JUDICIARY AND CONGRESS, WHILE DISREGARDING RULE OF LAW, VIOLATING BASIC CITIZEN RIGHTS AND LIBERTIES, AND LIMITING GOVERNMENT TRANSPARENCY AND ACCOUNTABILITY. ALTHOUGH THERE ARE A NUMBER OF LEGAL REFORMS AND CHANGES OF LAWS THAT WOULD BE HELPFUL, THE STRUCTURE OF LAWS IN PLACE IS NOT THE MAIN SOURCE OF THE PROBLEM. RATHER, THE COURTS ARE NOT STRONG ENOUGH TO APPLY LAWS EQUALLY OR TO HOLD THE GOP ACCOUNTABLE. THE OVERSIGHT EXERCISED BY THE CONGRESS AND PRESS LIKEWISE ARE

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POLITICAL OPPOSITION, CIVIL SOCIETY AND OTHER SECTORS. PRESIDENT FUJIMORI HAS PROMISED THAT PROPOSALS EMERGING FROM THE GOP COMMISSION WILL BE THOROUGHLY DEBATED, AND THE OAS SHOULD KEEP HIM TO HIS WORD.

REFORM OF INTEL SERVICES

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6. (C) REINING IN THE INTELLIGENCE SERVICES IS THE SINGLE MOST IMPORTANT THING THAT THE OAS SPECIAL COMMISSION CAN RECOMMEND TO THE GOP. PRESIDENT FUJIMORI STATED PUBLICLY JUNE 7 THAT THE DE FACTO CHIEF OF THE NATIONAL INTELLIGENCE SERVICE (SIN) VLADIMIRO MONTESINOS SHOULD ASSUME A MORE PUBLIC, OPEN PROFILE, IF ONLY TO PUT TO REST QUESTIONS REGARDING HIS ROLE AND ACTIVITIES. ANONYMOUS INTELLIGENCE SOURCES CITED IN THE JUNE 9 PRESS HAVE SPECULATED THAT MONTESINOS IS BEING CONSIDERED AS THE NEXT MINISTER OF THE INTERIOR.

JUDICIAL REFORMS

7. (SBU) THE OAS MISSION WILL LIKELY RECEIVE NUMEROUS POINTS OF VIEW ON DISCUSSIONS INVOLVING JUDICIAL BRANCH REFORMS. THE MOST IMMEDIATE CONSTITUTIONAL PROBLEM THAT UNDERMINES DEMOCRATIC GOVERNANCE IS THAT JUDGES AND PROSECUTORS ARE BEHOLDEN TO THE EXECUTIVE AND ALLOW POLITICS AND OTHER NON-JUDICIAL CONSIDERATIONS TO INFLUENCE THEIR DECISIONS. IN HIS REGARD, THE OAS SPECIAL COMMISSION SHOULD ENCOURAGE THE GOP TO PROCEED WITH ITS STATED INTENTION TO OVERTURN LAWS AND DECREES THAT CREATED

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INFO	LOG-00	NP-00	AID-00	ACQ-00	CIAE-00	INL-01	DODE-00
	ANHR-00	SRPP-00	DS-00	EB-00	VC-00	H-01	TEDE-00
	INR-00	IO-00	LAB-01	L-00	VCE-00	AC-01	DCP-01
	NRRC-00	NSAE-00	NSCE-00	OIC-02	OMB-01	OPIC-01	PA-00
	PM-00	PRS-00	ACE-00	P-00	SP-00	IRM-00	SSO-00

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8. (SBU) AS OAS OBSERVATION MISSION HEAD EDUARDO STEIN NOTED IN HIS PRELIMINARY REPORT, THE EFFECTIVE CONTROL OF THE EXECUTIVE OVER THE OTHER BRANCHES OF GOVERNMENT COMPROMISED THE INDEPENDENCE OF THE SYSTEM OF JUSTICE AND ELECTORAL SYSTEM. IN CONSULTATION WITH THE OPPOSITION AND CIVIL SOCIETY ELECTION EXPERTS, THE OAS SPECIAL MISSION SHOULD URGE THE GOP TO SEEK CHANGES IN THE ELECTORAL LAW TO IMPROVE THE EFFICIENCY AND CREDIBILITY OF THE ELECTORAL PROCESS, INCLUDING:

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- ESTABLISHING CREATE SINGLE MEMBER DISTRICTS;
- ELECTING/ROTATING A THIRD OF THE CONGRESSIONAL MEMBERSHIP EVERY TWO YEARS (IN SAME MANNER OF U.S. SENATE);
- COMBINING THE THREE DISTINCT ELECTORAL BODIES TO FACILITATE OVERSIGHT AND IMPROVE ACCOUNTABILITY;
- PUBLIC FINANCING OF ELECTION CAMPAIGNS TO LEVEL THE PLAYING FIELD;
- ABOLISHING THE ARTICLE OF THE ELECTION LAW THAT REQUIRES THE SIGNATURES OF 4 PERCENT OF THE ELECTORATE TO REGISTER A POLITICAL GROUP;
- ENCOURAGING DEVELOPMENT OF ORGANIZED POLITICAL PARTIES;
- OVERTURNING THE LAW THAT MODIFIES THE VOTING SYSTEM OF THE NATIONAL ELECTIONS BOARD (JNE) FOR RULING ON CHALLENGES TO ENHANCE ELECTORAL TRANSPARENCY. (NOTE: THE CURRENT LAW REQUIRES FOUR OF FIVE JNE JUDGES TO DECLARE A CANDIDACY INVALID AND TO MAKE OTHER DECISIONS.)

FREEDOM OF THE PRESS

9. (C) THE DOMINANT INFLUENCE OF THE EXECUTIVE BRANCH OVER THE BROADCAST AND PRINT MEDIA IS FACILITATED BY THE FINANCIAL FRAGILITY OF THE MEDIA. IN VIEW OF THE LIMITED ADVERTISING

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-- MODIFY RESTRICTIONS ON OWNERSHIP OF MULTIPLE MEDIA AND ON
LIMITING FOREIGN INVESTMENT IN THE MEDIA, TO STRENGTHEN THE
FINANCIAL STANDING AND THUS AUTONOMY OF PERUVIAN TELEVISION;

-- SETTLE WITH BARUCH IVCHER, WHO LOST CONTROL OF HIS TELEVISION
STATION AFTER HE BROADCAST UNFAVORABLE STORIES ON THE
GOVERNMENT.

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OVERSIGHT AND DIALOGUE

10. (C) PROMOTING EFFECTIVE DOMESTIC AND INTERNATIONAL
OVERSIGHT, AS WELL AS DIALOGUE AMONG ALL POLITICAL ACTORS, ARE
INDISPENSABLE CHECKS ON EXECUTIVE BRANCH ABUSE OF POWER. IN THIS
REGARD, SYG GAVIRIA AND FM AXWORTHY SHOULD:

-- UNDERSCORE THE NEED FOR CONGRESSIONAL AND OTHER OVERSIGHT OF
THE EXECUTIVE BRANCH BUDGET AND FUNCTIONS, IN PARTICULAR OF THE
INTELLIGENCE SERVICES;

-- ENCOURAGE THE GOP TO RETURN TO THE COMPULSIVE JURISDICTION OF
THE INTER-AMERICAN COURT OF HUMAN RIGHTS AND FURTHER LIMIT THE
JURISDICTION OF MILITARY COURTS;

-- PROMOTE DIALOGUE AND CONSENSUS BUILDING BETWEEN PERU'S
WEAKENED CIVIL SOCIETY AND THE INCREASINGLY AUTHORITARIAN
GOVERNMENT; AND

-- ENCOURAGE BOTH THE OPPOSITION AND THE GOVERNMENT TO SHOW
GENUINE POLITICAL WILL AND FLEXIBILITY, WITH A VIEW TO STANCHING
THE INCREASING POLITICAL POLARIZATION OF PERUVIAN SOCIETY.

HAMILTON

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