



**NEW ANTI-CORRUPTION GOVERNMENTS: THE CHALLENGE OF DELIVERY**

# PERU

A CASE STUDY

**Jose Ugaz Sanchez Moreno**

Excerpts from a case study prepared for the New Anti-Corruption Governments Meeting Co-organized by the Government of Kenya, TI-Kenya and TI Secretariat held in Nairobi, Kenya, in October 2004.

# Peru

## 1. Executive summary

Despite the considerable political, economic, social, and moral shift in society resulting from the exposure of widespread corruption within the government of Alberto Fujimori in the 1990s, attempts to combat corruption during the subsequent period of democratic transition<sup>1</sup> have been restricted. Sporadic initiatives across different sectors have had limited effect, while the lack of a national anticorruption policy has hampered progress. The political will demonstrated by Valentín Paniagua's transition government<sup>2</sup> - which called upon a group of independent experts to design a policy proposal for Alejandro Toledo's government to sign and implement (National Anticorruption Initiative (INA)) - has dissipated.

The current administration has failed to address sufficiently the context of transition and has disregarded some INA recommendations while adopting others. The most regrettable example of this piecemeal approach was the creation of a National Anticorruption Commission (CNA), to which the presidential adviser on public ethics was appointed as chair. Such a political appointment meant the chair was without the autonomy needed to effectively monitor the Toledo administration's activities. In addition to its formal limitations, the CNA has also failed to live up to its mandate of proposing a national anticorruption policy (despite having the INA as a precedent).

This lack of political leadership on anticorruption measures has been combined with a continual unearthing of corruption scandals associated with the Possible Peru administration, particularly involving President Toledo. Consequently there is deep-seated distrust within society of the state's capacity to reduce the incidence of corrupt acts.<sup>3</sup>

## 2. Conclusions

### 2.a. Current outlook: achievements and obstacles

There have been important achievements in fighting corruption. That the process is underway at all is an achievement in itself. Never before in Peru have members of the political elite, former cabinet ministers, former congressmen, judges and prosecutors, high-ranking military commanders, high-ranking officials from different institutions, businessmen, and media owners been prosecuted. There are 143 lawsuits pending and the number of those implicated stands at 1,453. More than US \$170 million has now been recovered.

These achievements have been the product of the state system itself, which has confronted not only the power of the survivors of Fujimorism (including Fujimori, who is still engaged in political activity even from his refuge in Japan) but also the lack of support from the current government. It has also tackled the obstacles that arose when the Prosecutor's Office found links between associates of President Toledo (such as his former adviser César Almeyda) and the corrupt actors from the Fujimori administration. Currently, to prevent further investigation of these ties, the government seems likely to terminate the prosecutors' contracts, although this might represent a step backwards. As a result of this, complications are expected because the prosecution of several human rights cases are imminent, and these cases contain most of the material needed to convict Montesinos and Fujimori.

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<sup>1</sup> According to some authors, after Fujimori's fall the only formally transitional government has been that of Paniagua, while the Toledo administration operated in a time of democratic consolidation. However, this paper views the Toledo government as belonging to the transition period in that there are elements of the Fujimori institutional structure that have not yet changed and, more importantly, there are political traits that suggest authoritarian backsliding rather than consolidation because of greater pressure exerted by the press, civil society at large, and the political opposition. On theoretical grounds, transition governments are unable to call free and competitive elections.

<sup>2</sup> November 2000-July 2001.

<sup>3</sup> First and second National Corruption Surveys. Proética, Apoyo Opinión & Mercado, Lima, 2002 and 2004.

The consequences are already being felt. In a recent poll, 54 per cent of those surveyed are aware of the work being done by the Prosecutor's Office; 68 percent approve, while 43 per cent disapprove. The lack of support, particularly in terms of economic resources, but also because of the government closing ranks and other attacks on anticorruption initiatives, has influenced the public's perception (*El Comercio*, 12 September 2004). Furthermore, during the four years that they have been prosecuted, the lawsuits have only resulted in 14 convictions, affecting around 1 percent of all those implicated, due to the slow pace of the justice system".

As for long-term objectives, a significant achievement has been the INA diagnosis and proposals, which have been completely overshadowed by the current government's inefficiency and reluctance to implement them. Not only are the lack of leadership and technical capacity serious problems, but the presence of corrupt interests within the government also hinders attempts to combat corruption. Yet some measures have been implemented, such as the law on access to public information. Implementation of legislation remains problematic, however.

### **2.b. Current challenges**

The lack of authority and strong leadership in the fight against corruption has taken a heavy toll on the country's economic development.

Building leadership is no easy task, especially when political leaders set up agendas according to what they believe the public wants, rather than making real commitments to deal with a country's structural problems, including those that already have precedents (such as the CVR and INA). The weakness of Peru's political party system is a factor that contributes to such populist politics. Although political parties throughout the world went into crisis with the fall of the Berlin wall and with the development of new information technologies, in Peru Fujimorism persistently attacked political actors, accusing them of institutional and economic sabotage at the end of the 1980s. This image of inefficiency and corruption that was conveyed to the population at large has still to be overcome.

The second challenge concerns administrative and institutional reforms, starting with the reform of the state apparatus itself. The experience of reforms of the police, the military, and administration of the judicial branch has not been encouraging. Political leadership is thus needed to propose and defend these and other necessary reforms, including a review of anticorruption laws and the passage of more appropriate legislation, such as the introduction of international mechanisms to which Peru has subscribed (Inter-American Convention Against Corruption and the UN Convention against Corruption - yet to be ratified by Peru's Congress).

Finally, possibly the biggest challenge will be to change society's attitude to corruption. There must be a reduction in the high level of tolerance that people have towards corrupt acts, as verified by the national surveys on corruption,. Without doubt, the work in this field is the most complicated, requiring a broad vision and a long-term approach, but it is also the most urgent area to address because of the gap between state and society. This gap is being reinforced through society's acceptance of the constant acts of corruption that are committed in a way that is considered nearly natural and of little consequence: bribing traffic police in order to get out of a fine, or paying bribes to the municipality to expedite paperwork. It is essential to combat this because the perception of widespread corruption also has a negative impact on anticorruption initiatives, as illustrated by the social evaluation of work carried out by the Prosecutor's Office.

### **2.c. Other conclusions and lessons learned**

If Peru's struggle against corruption were represented in accounting terms, the country would be firmly in the red. Progress in tackling corruption established during Fujimori's time in office is being threatened by competing interest in the current government. Although the INA made

progress in developing a national anticorruption policy, this has now been undermined by the incapacity of the Toledo administration.

Consequently it has not been possible to significantly reduce the level of systematic and institutional corruption. Progress in addressing corruption has been limited to the judicial and penal sectors, and society perceives the current government to be equally or more corrupt than that of Fujimori.

Peru has not assimilated the lessons it should have learned. On the contrary, it appears that were it not for the influence of some social actors (independent journalists, NGOs for citizen oversight) and politicians (strong and effective opposition), corruption would once again become systemic, as the case of César Almeyda demonstrates.

#### **2.d. Recommendations**

Improving Peru's political party system is essential, not only to prevent the influence of corrupt interests in political campaigns, but also, more importantly, to encourage debate on public policy.

Reform of the state and other institutional reforms must be resumed immediately. A review of anticorruption laws and legislation should also be undertaken, evaluating their relevance, and, where necessary, proposing legislation that addresses the corruption more effectively.

Peruvian society should also be made more aware of corruption issues and the collective memory of Fujimorism should be reinforced. The INA study should be disseminated to the public along with its recommendations, as well as the results of judicial investigations by the Prosecutor's Office. It is also important to systematically analyse and further pursue information on Fujimorism, how it took advantage of weak institutionalism and Peruvian culture, how much money was stolen from the State, and who is directly and indirectly affected by corruption. Naturally, this information should also be publicised.

Finally, civil society must be educated in the use of tools and mechanisms for citizen oversight. Many initiatives for oversight exist, but generally these are ineffective when there is a lack of access to information on public administration and officials and authorities withhold it. Thus Peru's citizens need to be informed on the content and scope of access to public information legislation, as well as on civil legislation for citizen participation in public decision-making processes.