Mr. Gabriel Ortiz de Zevallos
Executive Director of the Support Institute (*Instituto de Apoyo*)
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JOHN: I have an interest in the effect of the public vote, in other words...

GABRIEL ORTIZ: The public vote or you mean the registry of votes (*registro de votos*)? Yes. That's been established in Peru since the year 1997-98. We, from the Institute, have promoted that it be applied. Since 1982 or 1983 there've been initiatives to install an electronic vote registry board; that electronic board has even been bought several times. Sometimes there have been such absurd boicots that suddenly...

JOHN: 1982-83?

GABRIEL ORTIZ: Yes, let's say since 1983 and up until 1997, there were fruitless attempts to install the board and register the voting. There's a lot of opposition to the establishment of a registry board, some of it's open, some of it's occult. We, as a research center, have insisted a lot through various publications that it be installed. The board's finally installed in 97-98 and I believe that it's had a very important, but still incipient impact.

Now, yes, there are laws that you could think would've been different, or rather, whose approval would've been more difficult if there hadn't been transparency in the voting. There've already been moments where, for example, a multiple electoral district (*distrito electoral múltiple*) has been obtained. There's a great tendency (*corriente*) in favor of the multiple electoral district. The elections, in other words in the era of the OAS' negotiation table, there's a discussion about whether the parliament, which has already been elected for this or the other, will be more on the basis of smaller electoral districts (*circumscripciones*). In other words, only departmental [districts] remained, that still are very big, but there's the singular national district (*distrito nacional único*) like there was before.

So the Congress, naturally, the Congress members who were in the previous Congress to this one, had the initiative, the incentive, to maintain the singular district *(distrito único*) which was the formula used for their election. However, in the end, they accepted the change to the multiple electoral district because there was a very strong tendency of opinion in favor of the multiple electoral district and because the vote registry (*registro del voto*) clearly showed who was opposed to that measure. In some cases I see that they've achieved that the voting be different because now it's necessary to render accounts (*rendir cuentas*) although in other cases they've not been able to achieve that, but, they're beginning to request accounts (*cuentas*).

Recently there has been a motion to acquit Minister Salas, where there are two very strange abstinences (*abstinencias*) which are those of Andro Flores Arauz and that of another parliamentarian whose name I can't recall right now. In other words, there are two abstentions that are abstinence of opposition parties. Now, they're requesting accounts of those people by

saying to them: why have you voted this way. I believe that a change is taking place; however, it's natural, but it's only just beginning to establish itself.

Now, there's an additional element which is an element that you don't usually see from the political science of more developed countries; which is, you people often assume as fact, because the North American Congress has a heap of resources, that the congress' information resources are reasonably abundant in order for the debate of laws to be a debate where it's more or less clear what the options at play are. In countries where the staff level is so poor, and the level of technical resources for information is so poor, the topic of transparency in the parliamentary situation is not only limited to that of vote registry (*registro del voto*), but rather it obligates procedures associated to the legislative debate that require cost-benefit analysis of the laws or requires an effort to make the implications of the laws more transparent. Only when there's a vote registry and a procedure at the same time which allows for the clarification of each bill's economic consequences, then there's enough transparency and the Congress isn't a black thing.

JOHN: In the cases of the current Congress members who postulated for re-election in the last elections, were the votings that they made in the Congress debated in the campaigns?

GABRIEL ORTIZ: Still very little. Some specific cases of why he voted this way or why he voted that way, but still very little. Very incipient.

JOHN: How will the role of the Peruvian Congress be changed in the upcoming government's term?

GABRIEL ORTIZ: It'll be much more important because it will be a Congress without a government majority. Then the power space (*espacio de poder*) will be a space that's located much more in the Congress than in the previous government. However, that can be good or bad. Well, if this negotiation space means something structured, transparent, orderly, where there are coalitions that somehow negotiate on the basis of reasonably transparent and open agreements. What support do they give to the government in exchange for what conditions? But it can also be negative if the Congress in itself isn't very transparent, if the party structure - which doesn't exist in Peru - makes the support be very atomized, very conditioned to the day-to-day, where there's a little guerrilla war inside the different groups of the Congress for trying to look for a larger space in the following elections, etc. In general, Peruvian history has had a little, like two blocks, two cycles: congresses of the governmental party that have been very weak and haven't controlled the government at all, that have allowed the government to do whatever it wants, and congresses of opposition to the government that haven't allowed to govern and many times have ended in a coup. This pendulum is a pendulum that characterizes most of the republican history and the challenge is that in this next election, in this following government term, the congress begins to be structured, begins to be strengthened; begins to be an institution that's not-so-much an informal space.

JOHN: In this sense, after the revelations of some and the *transfugas* of Congress members, has there been a stable majority connection to legislate in the Congress?

GABRIEL ORTIZ: No, what there's been is that the Congresses in general, mostly when there's little information, are vulnerable to populist style initiatives. A small, very organized sector can obtain benefits from the Congress through such initiatives which in turn means a negative effect for a disorganized group of people. In other words, a type of measure that favors one sector while harming the rest, is a type of measure which is relatively easy to pass in the Congress. Most of all in a Congress that's not very well informed, where if there's some representative who's more in line with some of those affected sectors, he doesn't have enough information to know that they're in jeopardy or have the ability to convince the rest of people that they're in jeopardy. So, this transitional Congress has been quite vulnerable to this type of initiatives. You know that the privatization of the ports has been paralyzed in favor of a small group of port workers, which goes against the possibility that exports be increased, to reduce the export costs for a group of..... that would've been much greater. There's a desire to modify the pension system, right now they're debating a norm that inflates (*avienta*) the compensations enormously with regard to the topic of dismissals, etc. There's a group of elements. In reality, there, two things occur: one, the fact that the Congress is still very informal; it's minimally structured. In other words, you usually think of the Congress as a space where all interests are represented. Therefore, they're all going to counterbalance and if somebody wants something that harms another, there'll be someone who represents this interest, who says "no". Meanwhile when one thinks of the Executive, one thinks about an option: an ideological option; in a government option, etc. So, usually one prefers the Congress to the Executive, in that the Congress represents all of the sectors, and the Executive only represents the sector that won.

Well, it's not so certain in the case of congresses that have enormous limitations with regard to information because decisions pass somewhat *encrispadas*; so, an organized group, with a not-so-clear bill, political affinities, with too informal a structure, easily allows for them to approve this type of measures.

This Congress has worked better in the sense that it's been able to cut the system of corruption and investigate the previous government's system of corruption. But, to consider that this Congress is a good Congress, or if you want the next Congress to be a good Congress, there's still a lot missing because it's more a structural matter. It's a topic which has to do with: how the organization is erected; what the organization's resources are; what procedures are followed; how it can guarantee, let's say, that the different voices are contrasted, are represented, etc., and that doesn't happen. So, this concerns me a little because I feel that at a high level there's a bit of a perception that when Fujimori and Montecinos left and the regime passed from one where the President had too much power to another regime where the Congress will be a very important political negotiation space, that already, yes it's already progress. And it's only an advance if the Congress begins to work in a different manner.

JOHN: And does it have the capacity?

GABRIEL ORTIZ: Yes.

JOHN: How will a majority coalition be formed in the next Congress?

GABRIEL ORTIZ: Nobody knows the answer to that question yet.

JOHN: Does it depend on who wins and who loses the presidency?

GABRIEL ORTIZ: Yes, that will be important, but nobody has thought enough about it yet.

JOHN: In the quantitative analysis that I've done up to now, in Peru but also in many other countries, I used for example, the outcomes (*fines*) of votings from 1999 through the first months of 2000. I found that the levels of partisan unity in the Peruvian Congress at that time were as high as in any other party in any other country, for instance the disciplined parties (*partidos disciplinados*) of Europe, the PRI of Mexico. Now, I'm not surprised because I know what was happening at that time.

But to predict, I'm going to make the same analysis with more recent votings, to predict, or better yet, to be able to say, what will I discover? Has the partisan discipline decreased in the Peruvian Congress since...?

GABRIEL ORTIZ: I haven't reviewed the figures, but my impression is, yes. I feel that aboveall there are two things in partisan discipline, usually what I see, my way of thinking on these things is sometimes a little against....., be it true or not. Throughout time there's been criticism that the government has a monolithic attitude with regard to the handling of parliamentary decisions. In other words, in Peru there's a sort of criticism that Congress members should vote by his/her conscience (*por conciencia*), in an independent way, and not so much in agreement with the partisan group. This is validated due to the vertical management that Fujimori's government has had; he's even, let's say, sent the Congress members decisions by beeper. However, I believe that here two things are mixed together: the criticism of an authoritarian government and an authoritarian government's management methods that springs us into a practice of saying: good and so really each person should vote according to their own decision and there shouldn't be any type of previous coordination. This is a recipe for chaos. In other words, I don't believe that you elect 120 people, provide them with little information about what their political decisions involve and then tell them to vote according to their conscience. Or rather, it's not a reasonably sensible formula to use to govern a country.

There's a need for coalitions, there's a need for groups, within these groups there are people who more or less know something about a certain topic and agreements must be granted by blocks. Even more so in a Congress that won't have a majority. That's to say, at least you know that if you have to pass a law regarding the modification of the financial system, you have to speak with the *Aprista* Party representative, with the *Perú Posible* Party representative, with the *Unidad Nacional* representative and with the *FINI* representative, that if the votes already can.... If everyone will be voting as he sees fit, that enormously elevates the costs of a decision and of governing, the decisions are entangled, etc. So, I would like to believe that in the next government, the groups are going to act reasonably, monolithically. In other words, that they're not going to act monolithically in moments where there's a question of conscience, when there's really an element that makes them say "no", on this particular topic I'm not willing to vote with my party because a), b) or c), but this has to be an exception, it can't be the rule. However, a lot

of people have the perception that no, that the correct thing would be that each person votes according to their own decision and of course, that reaction has to do with the reasoning contrary to what has been *"Fujimorismo"*..

JOHN: Of course. From the Peruvian citizen's or the voter's perspective, what's demanded from the Congress members?

GABRIEL ORTIZ: Everything.

JOHN: More specifically, is reorientation in support or in opposition to a governmental program project or attention to regional, departmental needs demanded?

GABRIEL ORTIZ: Attention to regional needs, favors and work options and things like that. Personally, the citizen doesn't distinguish between what the role of the Congress is and what the role of the Executive is. He's interested that this Congress member carries out works in his community even though the Congress members don't have an expense initiative (*iniciativa de gastos*) in Peru, he requests favors of the Congress member. It's a representation system that's let's say very client oriented (*clientelista*) and in terms of collective unconsciousness (*inconsciente colectivo*), somehow, or what journalists can believe regarding the Congress, etc., what's set forth is that they have to present bills, which is a serious error because this means that the parliamentarians, with little technical support, are presenting and presenting and presenting bills thinking that this is their work. I even know one of the parliamentarians, who I would classify among the best 10, and he said to me that during his second year as parliamentarian he realized that everybody was talking about how many projects they had presented and were measuring people by how many bills they'd presented. So, he began to adopt a technique where instead of drawing up an integral, complete bill, he divided it into ten parts. So, instead of taking up and modifying part of the financial system, he wrote 10 bills, each one with an article. And he's one of the the top-ten. In other words, the concept that the parliamentarian's work is one of presenting bills is very pernicious. I believe that it's important to keep on advancing towards a concept that the parliamentarian's role is to represent interests and if this has to do with a law, this is one of the channels. But the power is a power which, more than legislative, is a representative power; that's to say, the difference between the Executive and the Congress isn't about who establishes the law. In principle, we have everyone represented in the Congress while in the Executive only those who have won [the elections] are represented. That's a crucial point that I unfortunately believe we're dragging the concept: the separation between the Executive and the Congress is that the Congress appears as control and as representation. A topic of law materializes but it was when the laws were much more simple, much less *encrispadas*. They were very transparent political decisions, taxes, and everybody knew how much they were going to pay, etc. The space of the debate, the idea that there's a collective body which represents all of us, deciding whether certain laws are passed or not. When these laws are simple laws...

JOHN: Let's say that anyone could understand the options at play. In other words, that the options are clearly precise. When you have a law regarding the financial system, or a law on pharmaceuticals, or a law for decentralization, etc., they're all extremely technical aspects, where the idea of electing 120 people, not provide them with a lot of staff and decide that they vote and

decide about the law's content, isn't the best way to obtain that law. In reality, what you seek in the Congress is to control the Executive, to represent interests that aren't being represented by the Executive. It's to brake and place some limits on what the Executive wants to do. The science of the legislative's power isn't to make laws, it's to control the Executive.

In countries with an abundance of resources, like the United States, the Congress has a very good staff, it has a heap of information, etc., so yes, it can make laws and that's all. But in developing countries, where you don't have that, it's better. I even have the perception that it would be preferable for it to be the other way around, that only the Executive should have the legislative initiative and the Congress, the vote capacity.

JOHN: Is that how the budget works here in Peru?

GABRIEL ORTIZ: Exactly. I believe that this formula is a much more sensible formula for countries that have technical resource limitations because naturally, let's say the Ministry of Agriculture, the Ministry of whatever, has the technicians; they can be good, bad, regular; they can have good Ministers with good ideas, but at least the law that comes out of there will be a clear, consistent law; in other words, it will be consistently free market (*libre mercado consistente*), or consistently intervensionist (*intervensionista consistente*). But it's going to be a law that Article 1, 2, 3, 4 and 5 all follow more or less the same philosophy, they're clear, they're orderly. And it's the Congress that says "yes" or "no". In other words, it represents the rest of the interests and since it has to say "yes" or "no", then it must invite experts, etc., so they can reach a conclusion of "yes" or "no". But if you don't have the Congress members thinking about saying "yes" or "no", but rather you have the Congress members thinking what bill can I write today and you have at 120 people thinking what bill they can present today, without staff, what you have is a chaos of initiatives that don't make any sense.

JOHN: Are simple, or superficial initiatives made?

GABRIEL ORTIZ: Many superficial, others no. Others are tricky (*tienen trampa*).

JOHN: But if for example they're superficial, afterwards it's left to the Executive to receive the law.

GABRIEL ORTIZ: Sure, yes, but these aren't the problematic ones. There are three types of problems: the first is those who don't understand the problem, so it generates a very high level of uncertainty because many times there's a previous law that's contrary but they haven't taken it into account, etc., then the judges have two laws and they don't know which one to apply; they apply that which suits them.

JOHN: That gives the Executive a high level of discretion to do any thing that it wants.

GABRIEL ORTIZ: For that reason. That's to say, you don't achieve anything. You don't achieve certainty, you aren't able to control the Executive. In other words, the only thing that you achieve is that people now debate bills, and the truth is that that in itself isn't beneficial nor democratic.

Then the others, those who're tricky (*tienen trampa*), those at the crux of the matter are in Article 15 that says modify clause c of Article 27of Law 25147.

JOHN: It seems to me that that has to do -well, perhaps not - but I find that this form of representation has to do with the open list system (*sistema de lista abierta*). In other words, whether all the parliamentarians are more or less electoral small businesses (*microempresas electorales*) because they have to win the preferential vote.

GABRIEL ORTIZ: No, yes, that's part of the matter, but I believe that there's a more fundamental topic and this is something that we did with José Luis, reforms pending on the topic of the Congress with different people. A part of this is true, but part of it is, I believe, and here I'm making a bit of an orthodox asseveration and suddenly without doing much previous research. But what I believe is that there's a historical topic at the bottom of all this. There's the development of the system of congresses, parliamentary or presidencialist summaries *(resumenes parliamentarios o presidencialistas*) in countries that have had long-time stable democracies or that've had interruptions but let's say have a much stronger democratic tradition. That this democratic tradition, in the end, reflects values and practices of its own history, of its own culture and a Congress was formed at a certain historical moment with a certain function related to the complexity of political problems in that time, taking into account the options available at that moment, etc. The Congress is established to control the King, but also to incide in relatively simple decisions. It is also a Congress that, let's say, in principle, not everyone has access to. In some measure, it's an elite congress. The principle of "no taxation without representation", has a context. As this evolves and is perfected, in other countries that haven't had this tradition, their elites, who were 5% of the population, and some had studied in Europe, return at a certain time and copy the same system; however, this system isn't able to solve the bottom-line *(de fondo*) problems because it's applied incompletely, due to a series of matters.

I believe that it's not necessary to make big changes, but rather make small changes that are important. It's necessary to return to the fundamental questions. One elects a President and this President has, following with the.....presidencialist assuming that it's not feasible to change..... parliamentarian because of historical questions in Peru.

So, one elects a President and that President needs to be able to govern but he needs control. So you elect a Congress who's role basically is to allow him to govern but have control over him. The ideal thing would be to have a bipartisanship (*bipartidismo*), or three parties. It's the ideal thing, but on the way it's necessary to seek solutions that come closer to this ideal which is a Congress that controls, that represents the sectors that aren't represented in the government and which allows [the President] to govern.

It's necessary to think about what modifications can be made that suddenly aren't very orthodox; that all of a sudden aren't part of the natural sequence of this historical occurrence of centuries. They can work very well here, but they aren't necessarily what's needed like institutional change in a country without a trajectory. I'm friend of Douglas Noit, we brought him here a while ago. I believe a lot in his theory, that it's totally of....., there's not that element. So, small

modifications like to say: ok, the Executive will have, in the enormous majority of the cases, the law initiative. The Congress won't make laws, the Congress will ratify them. In other words, I won't take away the power of legislating, because in the end, the power of legislating doesn't mean to be able to develop bills (*proyectos de ley*). The power of legislating is to be able to say the bill (*ley*) proceeds or it doesn't. This is the power, the power isn't to write prior bills for that to happen. The bill is whether you say "yes" or you say "no". If you say "yes" or you say "no", and it's the Executive who presents the bills, now I believe that you've aligned incentives in a much more productive direction because 120 people tell you that already. Today I have to vote on these three laws and I have to decide "yes" or "no". How do I vote? Let's see, who should I call? Who can tell me why I should vote "yes" or why I should vote "no"? So, you'll bring in experts, you'll bring in people, you'll investigate, you'll hold consultation meetings, etc., and later he you'll vote "yes" or "no". So, that's an incentive which is much more sensible so the law comes out well and for it to be sufficiently representative, than how we've been doing it up until now.

JOHN: In Peru, doesn't the Executive have this type of control for legislativas initiatives? In Chile, for example, it does.

GABRIEL ORTIZ: There yes, but here no. What happens is that Chile is much more structured.
JOHN: Does it have power for initiatives but without a control of the amendments?

GABRIEL ORTIZ: The Congress doesn't control the agenda, so the Congress frequently torpedoes the initiatives [to the Executive]. It places the Executive here and there, and then there's a Minister of Agriculture who wants to establish such-and-such agrarian policy and they place confidence *(le dan confianza)* in that Minister, these people's project goes in the other direction and they tell him now, ok, and then they get two bills from him that he's not in agreement with but since they were approved, in the end he says: "and now what do I do with this bill"? So he doesn't give the funds to that bill in order for us to go to what's reflected there and he doesn't assign a budget to it or they have it at a "we'll see" stage, but meanwhile that law's in effect. It's a confusion that generates a lot of incentive , let's say, for people to seek their individual benefit. There's not a fixation, in other words, precisely because throughout our history we've had authoritarian or dictatorial executives. So, we swing the pendulum which says, no, what happens is that now we have to do everything by consultation, everything by decision, everything by debate, everything by a great consultation, so between consultation, consultation and consultation and nothing's done. In the end people are so fed up with this and a new leader (*acaudillo*) appears who says that he'll solve everything because it's..... so we've been in that pendulum for a while. I think that the change of the idea should be that the Congress be a Congress of bodies (*instancias*) for debate and of decision, but it doesn't introduce anything. In other words, not one parliamentarian is thinking about what project is to be presented, not one. If we achieve this I believe that would be an enormous change in favor of democracy in Peru because it would allow the Congress members to think more about more productive things, such as, ok, "Who do I represent?" "What debate will I undertake?" "Is this initiative which the Minister of Agriculture has presented responding to the people who I want to represent?" "It's doing it or it's not?" In other words, how can I take the topic of the bills from him and the person's there and he's there every day, then they want to appear in the press -

because all politicians want to appear in the press - and they want to be in the arena (*palestra*) and be invited and be discussed, etc., he's going to be controlling the Executive; he's going to be looking to see if it's one thing; he's going to be organizing debates; he's going to be representing, which is what he should do. I think that the rules, let's say, I don't think that it's case by case, nor country by country, but yes I think that the sometimes a comparative institutional focus among countries can be very interesting because in essence the point is to perfect institutions throughout their history and so they're part....., and to go aligning them with certain specific objectives, with certain fundamental principles that are, on one hand, that there's a capacity to govern, and on the other hand, that there's some control regarding that capacity. To go a little this way, aligning. I believe that the vote registry (*registro del voto*) is a great advance, it's simple, like having an electronic board. In other words, this thing that's worth, I don't know, 200 or 300 thousand dollars, placed to function for five or six years, already generates, it's already an institution because it alters the incentives. By altering the incentives it affects the behaviors; by affecting the behaviors people begin to perceive other behaviors and then it starts to be interiorized into their mental model that this change is a change that I want now. I feel that this type of small changes, some that may be typical of the parliamentary evolution in other countries, while others may be contradictory with the parliamentary evolution of other countries, but the important thing is to ask in each country is "Would this align the incentives in the correct direction?" "Would this make the parliamentarian be more in tune with what's really their nature and function?" "Yes" or "no"? If it's, yes I believe that it's necessary to advance this way as much as you can.

JOHN: Thank you, I will stop here.