



**STATEMENT OF THE NATIONAL DEMOCRATIC INSTITUTE
FOR INTERNATIONAL AFFAIRS (NDI)
ELECTION OBSERVATION BY DOMESTIC GROUPS**

May 7, 2003

INTRODUCTION

This statement on the rights of domestic non-partisan election monitors is offered in response to requests for comment from political parties and nongovernmental organizations in Azerbaijan. It is based on NDI's experience in Azerbaijan and around the world in supporting internationally recognized standards for democratic elections.

BACKGROUND

The Institute has organized more than 50 international election observer delegations to countries around the world and has offered over 100 commentaries on elections in more than 40 countries. NDI has worked alongside both political party and nonpartisan monitoring programs. NDI has maintained an office in Azerbaijan since 1995. It has sponsored international observation delegations to Azerbaijan to observe parliamentary polls in 1995 and 2000, as well as the 1998 presidential election. NDI representatives closely followed the constitutional amendments referendum in 2002. NDI's activities in Azerbaijan are politically neutral, based on international standards for democratic elections and draw upon comparative experience.

In advance of the 1998 presidential elections, Azerbaijan enacted legislation that provided for domestic non-partisan organizations to participate in the elections process as monitors. This legislation recognized the important role citizens could play in safeguarding their own elections. Unfortunately, prior to the 2000 polls for parliament, during the consideration of legislation regulating non-governmental organizations language was added placing restrictions on the right of domestic nonpartisan organization to observe elections.

In June 2002, NDI released a statement outlining recommendations to improve the framework for elections in Azerbaijan. These recommendations included removing the restrictions on domestic polling station observers along with suggested changes to other aspects of the election process. Since that time, progress has been made on elements

of the election law, but little has been said or done concerning the restrictions that continue to prevent domestic groups from monitoring elections.

ELECTION OBSERVATION BY DOMESTIC GROUPS

Citizens have a right to participate in government and public affairs of their country, directly or through representatives freely chosen by them in direct elections. Azerbaijan recognizes this right and has committed itself to provide genuine opportunities for citizens to effectively exercise this right. The government of Azerbaijan's obligations to respect this right arises under its constitution and under the Universal Declaration of Human Rights (Article 21), the International Covenant on Civil and Political Rights (Article 25), and commitments in the documents of the OSCE. This right and Azerbaijan's commitments also extend to respecting the rights of citizens to associate and monitor human rights, including organized observation of election processes.

The commitment to permit election observation by citizen groups is explicit in the 1990 Copenhagen Document (paragraph 8), as is the commitment to ensure that individuals be permitted to exercise the right to association and participate in nongovernmental organizations that seek the promotion and protection of human rights, such as the right to participate in government and to genuine elections (paragraph 10.3). Azerbaijan has further committed itself to support practical cooperative endeavors and the sharing of information and expertise among groups and organizations inside and outside Azerbaijan in areas including election observation (Copenhagen Document paragraph 26).

The government of Azerbaijan specifically committed itself to allow members of groups that monitor human rights, which includes election observation, to have unhindered access and communication with similar bodies within and outside its' borders, including international organizations, to engage in cooperation and to "solicit, receive and utilize for the purpose of promoting and protecting human rights and fundamental freedoms voluntary financial contributions from national and international sources as provided for by law." (Copenhagen Document paragraph 10.4) Moreover, Azerbaijan committed itself to ensure that the exercise of all the human rights and fundamental freedoms noted in the Copenhagen Document will not be subject to any restrictions except those provided by law and that such restrictions are applied in ways that insures the effective exercise of those rights and not in an arbitrary manner (Copenhagen Document paragraph 24.)

The failure of the Central Election Commission (CEC) to follow the laws of Azerbaijan on the release and publication of election returns makes the necessity of organized non-partisan citizen monitoring even more important. Azerbaijan therefore should allow domestic nongovernmental organizations to monitor its elections processes without any unreasonable restrictions and to participate in public affairs as domestic election observation groups and organizations. The government should also permit such groups to receive and utilize voluntary financial contributions from international sources

which may come in the form of grants, cooperative agreements, memorandum of understanding or other arrangements. This right was enacted by the parliament as part of the 1998 elections and helped provide a check on potential abuses. It should be restored.

The government therefore should not in any manner arbitrarily or unreasonably restrict domestic nongovernmental organizations from election monitoring activities, whether through an accreditation process or otherwise or by any law, whether it be the election law, law on public associations (NGO law) or other legal provision. In this respect, Azerbaijan's law barring any NGO from being accredited as election monitors if it receives 30 percent or more of its funding from foreign sources violates the government of Azerbaijan's OSCE commitments and other international standards for respect of human rights and genuine elections. NDI has monitored elections in Europe, Asia, Africa, the Middle East, and Latin America. It no other country has such a provision of law been enforced. It should be repealed and no unreasonable or arbitrary restriction should be applied to domestic election observers.