



**GENEVA CENTER FOR SECURITY POLICY/OSCE-HEI
WORKSHOP
THE OSCE AND THE HUMAN DIMENSION
*Geneva, November 10, 2003***

**“ELECTIONS, HUMAN RIGHTS & CONFLICT MITIGATION
IN THE OSCE ARENA”**

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INTRODUCTION

For 20 years the National Democratic Institute for International Affairs (NDI) has worked to promote democratic reform around the world in countries that are emerging from:

- De jure one-party rule;
- Military dictatorship;
- Conflicts that negated the state’s ability to perform its essential functions; and
- Other conditions that prevented the development or functioning of democratic political processes.

Many of these countries have progressed to nascent stages of democratic political development. Some are functioning as stable and maturing democracies. Too many, however, have fallen into patterns of anti-democratic rule, through recurring conflict, hardening authoritarianism and/or corruption that subverts political and economic progress. The OSCE arena presents examples of countries that fit each of these descriptions.

NDI works on the ground with democratic activists in political parties, parliaments, civil society and in government to advance democratic reform in all of these circumstances. In the OSCE region, the Institute has conducted programs through field offices in at least 24 countries. Assisting those who have risked much and made history in their countries by building democratic processes and institutions year around has provided the Institute with experience, knowledge and a great deal of satisfaction.

1) THE CENTRAL PURPOSES OF ELECTIONS RELATE DIRECTLY TO HUMAN RIGHTS AND CONFLICT MITIGATION

Elections have two essential roles:

- To provide an effective avenue for the peaceful resolution of competition for political power; and
- To provide an effective avenue for the people of a country to express their free will – and thus establish a democratic mandate – for those who are to have the authority to govern in their name and in their interests.

These elements relate directly to the principles of Article 1 of the United Nations Charter concerning peace and security, expression of sovereignty through self-determination of nations and international cooperation in promoting respect for human rights and fundamental freedoms.

They are also at the core of the Helsinki Process, embraced by the provisions of the Final Act, elaborated in the 1990 Copenhagen Document and reinforced in the subsequent series of OSCE documents through the Charter for European Security signed in Istanbul. ODIHR submitted its report on June 30 of this year to the OSCE Permanent Council entitled “Existing Commitments for Democratic Elections in OSCE Participating States, A Progress Report,” which demonstrated the ground gained over the last decade in clarifying principles for democratic elections.

Basic precepts concerning democratic elections, however, are not recent. The Universal Declaration of Human Rights, adopted unanimously in 1948 by the UN General Assembly, addressed the right to participate in government through genuine elections. (Article 21)

The International Covenant on Civil and Political Rights (Article 25) reinforced the precepts in 1966, and the UN Human Rights Committee provided further interpretation of them in its General Comment 25. It is significant that there are 151 state parties to the ICCPR; almost all OSCE participating states are among them.

A further advance for the OSCE region is marked by the large number of participating states that are now members of the Council of Europe. Most of the OSCE states therefore are subject to the European Convention for the Protection of Human Rights and Fundamental Freedoms, including Article 3 of Protocol No. 1 to the Convention, which pertains to democratic elections, and they are subject to the considerable body of case law relevant to democratic elections that is provided in decisions of the European Court of Human Rights in Strasbourg.

2) ELECTORAL OBSERVATION IS PART OF HUMAN RIGHTS MONITORING

International standards for democratic elections are based on the proposition – set forth in the Universal Declaration of Human Rights (Article 21) – that the authority to govern derives from the will of the people of a country, and their will must be demonstrated through genuinely democratic elections, conducted by equal suffrage and a secret ballot. Article 21 also provides that every citizen (regardless of gender) has the right to participate in government directly, as well as to freely choose representatives. This requires the effective opportunity, without political discrimination or unreasonable restriction, to stand for office, as well as to freely cast a vote.

In order to achieve genuinely democratic elections, a number of other fundamental human rights and freedoms must be exercised without undue, arbitrary or burdensome restrictions, including: the right to association; the right to peaceful assembly; the right to political expression; the right to seek and receive information; freedom of the press; freedom of movement within the country; and the right to security of the person against intimidation, violence or retribution for political activity, including expression of free choice at the ballot box.

Equality before the law, due process of law and the right to effective legal remedies are essential to the realization of civil and political rights in the election context as well as beyond. Among

other precepts, democratic elections must respect the nondiscrimination rule set out in the Universal Declaration and all other human rights instruments, which provides that:

“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

In an election context these rights have led to a number of principles that are manifest in the following propositions.

- The electorate must be free, and voters must *believe* that they are free to make political choices, without intimidation, bribery, undue influence and fear of retribution because of their vote.
- The electorate must be adequately informed about the electoral contestants in order to make a genuine choice.
- Voting must take place by secret ballot, based on universal and equal suffrage – and there must be a genuine opportunity to exercise this right – free from unreasonable or arbitrary restrictions and discrimination.
- There must be a sound legal framework and an impartial and effective election administration that conducts its activities in an open manner, including among other things counting and reporting accurately, honestly and publicly the electoral results.
- Officials, agencies and offices at all levels of government must remain politically neutral, and state resources must not be used for partisan political purposes.
- Those seeking to compete peacefully for political power must be free to associate into political parties and to gain access to the ballot without political discrimination.
- Political contestants must, in fact, be given a fair chance of reaching the voters and winning their support – that is, a reasonably level playing field. This must include an electoral environment in which political parties and candidates are free to express their messages to the public and have an adequate opportunity to do so, in which political contestants have the freedom and opportunity to organize peaceful assemblies and other demonstrations of public support and to move freely throughout the country to seek votes.
- The news media must be free to gather and impart information about the political contestants and issues of political import.
- The government-controlled media must provide a vehicle for the political contestants to speak to the electorate and must be required to cover all political contestants accurately, fairly and in an equitable fashion, while private media must be strongly encouraged to act ethically and in accordance with guidelines for proper election-related coverage.
- Citizen organizations must be able to participate in the electoral process to help educate other citizens about the importance of the elections and must be free to monitor every aspect of the electoral process.
- The due process of law and equal protection of the law must be available to provide appropriate, immediate and effective remedies for citizens and electoral contestants in order to guarantee the integrity of the electoral process and the peaceful resolution of complaints. Election-related crimes must be prosecuted expeditiously, vigorously and fairly.

No electoral process is perfect – all require ongoing improvements – but the degree to which political processes fall short of these standards will determine whether or not the elections are credible.

3) ELECTIONS MUST BE CONSIDERED IN THE BROAD CONTEXT OF A COUNTRY’S POLITICAL FABRIC – INCLUDING POTENTIALS FOR CONFLICT

Elections cannot be separated from a country’s broader political process. In this sense elections are not “events.” As the points above illustrate, elections are intertwined with many institutions and processes.

Elections are also intertwined with broader social, cultural and economic factors, including:

- The existence in a society of racial, ethnic, religious, linguistic, gender and other improper bases of political discrimination; and
- The potential for underlying social conflict escalating to civil strife, civil war and/or genocide.

Considering the issue of elections and the potential for conflict, including ethnic and similarly based conflict, in isolation from the broader contextual issues and mechanisms for conflict management is a serious mistake. This is particularly true in post-conflict countries, where any peace process leading to elections must include post-election support for achieving *sustainable* peace.

Elections in and of themselves are not root causes of widespread violence, civil strife, civil war or genocide, and to say that elections “caused” such catastrophes often indicates superficial analysis that leads to inappropriate policy considerations. It is also important to note that elections should not be the endpoint in an “exit strategy” for the international community.

Root causes of widespread, severe conflict often are said to include: the drive to control land, people and economic resources (including natural resources); extreme economic deprivation and exclusion; environmental calamity; severe political exclusion; and tyrannical rule. Each of these can have a racial, ethnic, linguistic, religious or similar basis.

The main place to concentrate when considering elections and conflict mitigation, however, is the political dimension because, usually, it is the drive for political power to dominate people and other resources that motivates demagogues and others to foment conflict.

While elections are usually not a true proximate cause of widespread violence, they can present an opportunity for such violence to proliferate. Fraudulent elections can lead to violence and civil strife – for example the 1986 Philippine elections, when Marcos attempted to steal the outcome, and the 1989 Panamanian elections, when Noriega attempted to nullify the opposition victory.

Electoral mismanagement also can lead to violence and/or the immediate possibility of civil strife. Mali’s failed 1997 parliamentary elections, for example, created a protracted political crisis with a heightened potential for violence in its early days. Albania’s 1997 parliamentary

elections, which followed the near collapse of the state, came close to catalyzing further turmoil and bloodshed until electoral authorities made last-minute, extraordinary administrative efforts, with extensive assistance from the international community.

Other factors, such as political divisions running along geographic lines or electoral systems that close out any relevant participation in parliament by the opposition, can introduce violence and the threat of civil strife into the electoral context – as was illustrated in Madagascar’s most recent elections and was witnessed before changes in Lesotho’s election system.

The failure to develop sufficient and sustained efforts to mitigate the potential for violence during electoral periods in conflict-prone environments – such as post-conflict countries or countries with a high risk of ethnic or religious strife – can allow those competing for power to turn to open conflict. Elections held where major unresolved grievances remain sharp and root causes of conflict are not sufficiently addressed through buy-in from the protagonists and the population may be premature. Holding elections where there is not a sufficient commitment to sustained post-election conflict mitigation activities also open the door to conflict. Angola’s 1992 elections negatively illustrate these points, while the 1990 Nicaraguan elections and the 1994 Mozambique elections provide positive examples. The post-conflict elections in Bosnia and in Kosovo, thus far, provide positive examples in the OSCE region.

It is also critical to distinguish between types of circumstances where, on the one hand, conflict or the threat of conflict emerge as threats to peace in an electoral context – and a peaceful political process, on the other hand. Conflict is an ever-present factor, including in the competition for political power, even where it is unlikely to erupt into severe or widespread violence. Of course, it looms larger in conflict-prone environments.

The absence or breakdown of effective mechanisms for mitigating violence in a country are usually central factors when severe violence breaks out in the electoral context. Attention therefore is required for reinforcing conflict mitigation mechanisms.

International actors must consider a wide variety of tools and mechanisms to address conflict in approaching the electoral context. Among them are:

- International diplomacy (bilateral and multilateral)
 - Mediation, conciliation and negotiations
 - Good offices
 - Peace conferences
 - Special envoys, hot lines, contact/advisory groups
 - International appeals
 - “Carrots” (e.g., memberships in international associations, assistance packages and invitations for state or official visits)
 - “Sticks” (e.g., condemnation, suspensions of memberships, withdrawal of representatives, visa denials for targeted responsible persons, withdrawing assistance and sanctions)
- Military dimensions
 - Peacemaking, peacekeeping and peace monitoring forces

- Training and assistance programs for military, police and other security forces (extending as a “carrot” and withdrawing as a “stick”)
- Arms embargoes or blockades
- Activities and assistance in the non-governmental dimension
 - Second-track conflict management/mitigation efforts
 - Facilitation of dialogue among political parties (e.g., developing codes of conduct, agreements concerning legal reforms and/or composition of election commissions)
 - Developing mechanisms among parties to address grievances
 - Assisting internal party training of activists in codes of conduct and using complaint mechanisms
 - Assisting civil society organizations in civic education activities on issues concerning conflict mitigation, in monitoring and reporting on conflict-related issues and in facilitating dialogue among political contestants
 - Developing rule of law mechanisms for protection of rights and prosecution of violations
 - Assisting media in ethical and professional conduct

In Macedonia last year, many of the tools just described were employed. A high degree of diplomatic energy and a range of activities included bilateral and multilateral interventions. Negotiations and a conference led to the Ohrid Agreement, setting forth a framework for the cessation of ethnic-based conflict and peaceful political competition. Special emissaries were sent by intergovernmental organizations and governments to reinforce compliance with the Agreement in the lead up to the elections. Peace monitoring operations were integral to the efforts, and assistance packages were extended. OSCE/ODIHR sent a large long-term election observation mission, and its over 600 short-term election observers helped to dampen tensions over the election period.

NDI’s nongovernmental activities included facilitating dialogue among political parties that led to a code of conduct, which had a mechanism that allowed parties to convene meetings to air grievances and seek redress. NDI’s individual political party training activities included education for grassroots activists about the terms of the Ohrid Agreement and how they were reached, as well as education about the code of conduct. NDI’s work with nonpartisan Macedonian election monitors helped them to mount a nationwide civic education campaign about the code of conduct and helped the groups to monitor compliance with the code along with a wide range of other election issues. A number of other international and domestic groups conducted activities that helped reduce the potential for conflict in the electoral period.

International efforts continued through the tense immediate post-election phase. As the effects of these efforts combined with other factors, the potential for widespread, severe conflict was successfully mitigated.

In Georgia this year, intergovernmental organizations sent special emissaries. President Bush sent former U.S. Secretary of State James Baker as a special representative to meet with President Shevardnadze and others on the electoral front, which led to a set of election-related

commitments. NDI sent a pre-election delegation that included among others Gen. John Shalikashvili (ret.), former Chairman of the U.S. Joint Chiefs of Staff, and Strobe Talbott, former Deputy U.S. Secretary of State. That delegation also reinforced the need for certain actions to ensure electoral integrity. Plus, extensive international assistance was extended in electoral and other areas.

ODIHR organized a long-term observation mission and over 400 short-term election observers. NDI assisted a respected Georgian nonpartisan election observer organization known as ISFED or Fair Elections in comprehensive monitoring of the election process before, during and following election day. This included conducting a parallel vote tabulation (PVT or “quick count”) that presented highly accurate projections of election results based on a statistical sample of polling station reports. An independent Georgian media outlet commissioned an exit poll by a respected U.S. organization, with funding from the international community.

Nonetheless, official results differed significantly from the projections of the parallel vote tabulation and the exit poll, and nonpartisan domestic and international observer reports agreed that official results did not reflect the will of the electorate. A political crisis gripped the country that led to the mass mobilization of popular discontent and anger over electoral fraud.

The United States and other countries, as well as international organizations, issued pleas to Georgian authorities to honor the will of the electorate and certify accurate election results. President Shevardnadze, however, accepted the falsified results and convened a bogus parliament, the opening session of which was disrupted by demonstrators, forcing him to flee from the parliament building. United States Secretary of State Colin Powell and United Nations Secretary General Kofi Annan spoke with President Shevardnadze urging him to avoid bloodshed, as others engaged opposition leaders with the same message. Russia’s Deputy Foreign Minister traveled to Georgia and met with the main protagonists, urging them to find a peaceful resolution. President Shevardnadze resigned, triggering a special presidential election, while new parliamentary voting was set following invalidation of the falsified results.¹

Georgian citizens, opposition leaders and President Shevardnadze avoided bloodshed during this crisis. The international community helped Georgians to mitigate the potential for violence. This challenge was compounded by the fatally flawed October 2003 presidential election in Azerbaijan – where the international community did not apply similar pressures. The 2003 presidential and parliamentary elections in Armenia also failed to meet minimum international standards. While there are not immediate threats of violence or conflict in either Azerbaijan or Armenia, both face the issue of potential increased mid-term to long-term threats to stability where negation of democratic political processes closes avenues for seeking peaceful political and economic reform.

All of the examples cited illustrate the critical link that genuine elections provide between peaceful resolution of the competition for political power and necessity for providing the means for the people of a country to express their will about who will have the authority – and legitimacy – to govern in their name and on their behalf.

¹ This description of the Georgia example was updated in early December 2003.