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# Elections to Peace

Publication related to the  
 Senior-Level Exchange Elections to Peace – E2P



in collaboration with



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## **Imprint**

Editor:  
Tatiana Monney, Electoral Adviser

Specialist contact:  
Sébastien Coquoz, Adviser Peace, Elections and Democracy

Design:  
Mark Manion, Communication Arts

E-mail and orders:  
pd-ams@eda.admin.ch  
website [www.eda.admin.ch](http://www.eda.admin.ch)

Swiss Federal Department of Foreign Affairs  
Directorate of Political Affairs DP  
Human Security Division  
Peace, Human Rights, Humanitarian Policy, Migration  
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CH- 3003 Bern  
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# Foreword

Elections can have a positive impact on peace and stability if they are legitimate and inclusive. By allocating power in a democratic manner, an electoral process or a popular consultation can contribute to the inclusion of former rebel groups and minorities in society, which might otherwise resort to violent means to access power or play the role of a spoiler. The electoral process is also a national endeavor that can encourage democratic debates during a campaign, offer choices to citizens and boost a sense of common interest and a democratic culture.

However, there are many examples of elections marred by violence, even in well-established democracies. Violence may be employed to disrupt and discredit a process, or to impact the will of the people and the result of the elections. Less visible and more complex than armed conflicts, political and electoral violence is an important threat to human security and peace. Remaining tensions of past conflict might also emerge during the competitive process of an election, increasing the risk of return to armed violence.

The Human Security Division (HSD) of the Swiss Federal Department of Foreign Affairs (FDFA) is responsible for the promotion of peace, human rights and democracy as set out in the Federal Act on Civil Peace Promotion Measures and the Strengthening of Human Rights. It has developed a wide range of diplomatic instruments to support conflict prevention and peacebuilding, relying in particular on its experience in providing good offices and mediation. At the request of partner countries, the HSD combines its diplomatic tools with technical expertise to prevent violence during elections. It also exploits the potential of elections and other power sharing processes, such as constitutional and legislative reforms, to contribute to peacebuilding.

This publication of the Swiss FDFA / HSD builds on a Senior-Level "Elections to Peace" (E2P) retreat which took place in April 2018 in Geneva, at the premises of the Graduate Institute of International and Development Studies. The retreat gathered senior diplomats and officials, politicians, academics as well as practitioners to combine their experience in the fields of peacebuilding, mediation, and electoral assistance. This publication presents several of the key contributions of the guests of the E2P retreat. I trust that the publication will encourage policy makers and practitioners in the areas of peacebuilding, mediation and electoral assistance to intensify their collaboration.



*Stéphane Rey*

*Acting Head of the Human Security Division, Swiss Federal Department of Foreign Affairs*

# Acknowledgements



Exchange between politicians and mediators. © FDFA

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Exchange between CSOs - electoral management. © FDFA

HSD is also grateful to Judge Kriegler, former Justice and Head of the Elections Commission of South Africa, and Craig Jenness, Director of the UN Electoral Assistance Division, for greatly inspir-

ing the design and nurturing the discussion of the Senior-Level retreat. We would like to address a special thanks to all participants, including Abdusalam Abubakar, former President of Nigeria and mediator, accompanied by Bishop Matthew Kukah both of the National Peace Committee.

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Changing perspective on politicians. © FDFA

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Exchange between CSOs - electoral management. © FDFA



*Facilitate dialogues: the perspective of former heads of state, diplomats and CSOs. © FDFA*

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*Dialogue combined with Expertise. © FDFA*



*Exchange between CSOs - electoral management. © FDFA*

# 1. Introduction

Tatiana Monney · Electoral Adviser, Human Security Division, FDFA

## Elections as part of a Transition towards Peace and Democracy\*

Since 1975, the number of democracies in the world has almost doubled but in the last 12 years, many of them have been experiencing backsliding, failing to ensure basic democratic principles, separation of powers and rule of law.<sup>i</sup> Moreover, in the last five years, populism and autocratic trends have provoked a considerable decline of citizens' trust in democratic institutions among newer and older democracies alike. Scholars even warn of a crisis of democracy and of its potential effects on peace and security, in particular in fragile contexts.<sup>ii</sup> However, recent analyses show that democracies remain resilient, adapt and overcome threats with new forms of political participation.<sup>iii</sup>

While many think of democratic transition as a linear process, practitioners in think tanks and international organizations emphasize that it requires regular adjustments and commitment. As a political system, democracy can help to implement and guarantee civil and political rights. Democracy can also offer processes for inclusion, representativeness and power sharing, which in turn strengthen human security at the national, regional and international level.<sup>iv</sup> Democratic processes can also allow peaceful social debates as part of constitutional processes or within institutions such as parliaments. In this regard, democratic institutional frameworks are alternatives to violence "as [they are] a means of achieving governance".<sup>v</sup> In a democratic set-up, elections are one of the key mechanisms, giving people the opportunity to express their will and setting the rules for accessing power in a peaceful manner.

## Elections as Conflict Resolution Mechanism

Worldwide, the number and intensity of armed conflicts for control over territory or government reached an unprecedented level since the 1990s.<sup>vi</sup> While conflict parties traditionally resorted to global peace agreements to resolve armed conflicts in the 90s until 2007, specialists suggest that in the last decade they are no longer the preferred mode of resolution.<sup>vii</sup> Stakeholders increasingly request support to conduct national inclusive and transparent democratic reforms as a way to address violent conflict in a more sustainable manner. Constitutional reform, followed by a popular referendum, and elections are key steps in these contexts. By submitting constitutional reform as a new social deal to a popular vote or by electing a constitutional assembly through elections, societies pave the way for democratic political processes and power-sharing. By allocating power in a peaceful and democratic manner, a genuine electoral process can also contribute to the inclusion of former rebel groups and minorities in society who might otherwise resort to violent means to access power or play the role of a spoiler. In more stable and democratic

countries, electoral processes are a national endeavor that can encourage democratic debates during campaigns, offer choices to citizens, and boost a sense of common interest and a democratic culture. This is what the Secretary-General of the United Nations significantly recalls in his 2017 report on 'Strengthening the Role of the UN in Enhancing the Effectiveness of the Principle of Periodic and Genuine Elections and the Promotion of Democratization'<sup>viii</sup>: "Elections, when well conducted, can be a process for conciliation, for giving voice to citizens and for peaceful transitions".

## Elections as Catalyst for Violence

Elections may also deepen divisions, lead to exclusion or trigger violence as the above-mentioned report of the UN Secretary-General also acknowledges. Academic research confirms that 20 per cent of elections in Africa over a twenty-year period have been marred by violence.<sup>ix</sup> In Asia, examples such as Afghanistan, Bangladesh, Cambodia, Indonesia, Nepal, Pakistan, Philippines, Thailand and Timor-Leste<sup>x</sup> reveal similar trends. No continent is immune to this phenomenon and apparent stability can be deceptive. The case of the 2008 elections in Kenya is most emblematic of a major violent electoral crisis taking place in a country considered as stable. There is no doubt that political and electoral violence is an important threat to human security and global stability. However, experts warn of the risk considering electoral violence as the result of elections. Instead they clarify that electoral violence rather reflects the dysfunction of political processes.<sup>xi</sup> The capture of state resources by autocratic regimes, or certain groups, is often secured by political violence, which ultimately might contribute to uprisings or armed conflict.

## International support

In the last decades, elections have been supported from the peacebuilding perspective as one of the steps in the implementation of a peace agreement. Practitioners and scholars alike devoted their attention to identifying the appropriate timing and sequencing of elections in the peacebuilding process.<sup>xii</sup> With major electoral crisis taking place at the end of 2000 in stable countries, several organizations both in the field of peacebuilding and democracy support have increasingly focused their efforts to establish early warning mechanisms to better anticipate risks.<sup>xiii</sup> There have been important efforts to identify and implement measures to prevent, manage, or mediate electoral conflict and violence throughout the electoral process.<sup>xiv</sup>

However, the challenge lies in having sufficient coordination and joint understanding to connect the identified risks with the corresponding preventive measures and the appropriate timing in the peacebuilding and electoral processes. Additionally, there is a need to better connect peacebuilding experts with the electoral assistance, to use the positive role of elections in conflict

\* See all references, complements and notes on pages 12–13.

resolution. By working on the professionalism, impartiality and transparency of electoral management, international electoral assistance fosters confidence and integrity in the electoral process. This alone makes an important contribution to supporting Peace and Democracy simultaneously. The UN General Assembly adopted a framework for the provision of electoral assistance to its member states since 1991 and, together with the main providers of international electoral assistance<sup>xv</sup>, increasingly integrated measures of conflict prevention and transformation. In his above-mentioned report of 2017, the UN Secretary-General insists on the need for electoral assistance to help creating among citizens the “confidence that [the outcome of the elections] indeed reflects their will in order for it to be accepted. That confidence is determined by factors that go beyond the technical quality of the electoral process itself, or compliance with international obligations, or the effective performance of the electoral management body: it is also shaped by the broader political and economic context”. The report further emphasizes that the challenge “lies in identifying when and how an electoral process can help overcome conflict”.

### **Elections to Peace – E2P – a contribution to a comprehensive approach**

Over the last five years, the HSD of the FDFA has developed an integrated approach to elections, peace and democracy: “Elections to Peace - E2P” approach. E2P offers a holistic approach to support the role of elections both as a conflict prevention and resolution mechanism. With this approach, HSD also combines its traditional expertise in conflict transformation and mediation with technical assistance to support peaceful elections. Dialogue is an important tool to create an environment conducive to peaceful elections: it facilitates consensus, strengthens legitimacy, builds trust and enables productive coalitions between key political actors. The “Senior-Level Exchange Elections to Peace - E2P”, which took place in Geneva from 8<sup>th</sup> to 13<sup>th</sup> of April 2018 gathered policy-makers, academics, practitioners and mediators to draw lessons from a wide-range of countries on democracy and security issues, and feed into the innovative and integrated approach of E2P. After the Senior-Level Exchange, several participants led initiatives inspired by E2P leading to the adoption of codes of conduct for political parties in Georgia and Zimbabwe and facilitated the renewal of an agreement among candidates in Nigeria.

### **About this Publication**

This publication is a compilation of articles drafted for the E2P retreat and commented by participants as well as summaries of some of the inputs debated in the sessions. Both are published to contribute to the policy discussion in the peacebuilding and democracy support field. It is aimed at giving options to stakeholders and practitioners on how elections can be a mechanism to contribute to conflict resolution as well as on how to deal with electoral disputes related to the political competition. Therefore, by gathering articles, presentations and panel discussions of professionals and stakeholders working in supporting peace and democracy worldwide, this publication aims at enabling everyone to harvest “thinking material” and greater insights on the opportunities and challenges of supporting peaceful elections. This publication also encourages scholars and professionals to

look for new solutions and approaches integrating conflict resolution measures and democratic support. The variety of views expressed in this publication are those of the authors, and do not necessarily reflect the views of the editor, the FDFA nor those of the Graduate Institute of International and Development Studies or swisspeace.

### **Outline**

The first substantive section of this compendium of inputs by renowned researchers and institutions includes various inputs describing some of the dynamics between democracy, elections and peace. Professor Mohamedou, a seasoned analyst of international relations provides a close insight into the general state of democracy as well as on the main current threats identified. Laurie Nathan, a Professor of political science specialized in mediation support, argues that international and regional mediators, while attempting to solve an armed conflict, are often compromising democracy on the long run. Conversely, for Juan Fernando Londoño, it is democratic processes, that can threaten the achievement of peace processes, based on his experience of the peace negotiation in Colombia. Timothy Sisk, Professor of International Studies and author of numerous publications on elections, focuses on the interaction between elections and peace. In a video and transcript, the reader will find Judge Kriegler’s words of caution on the inherent complexity of elections as a political exercise.

The second section offers an overview of political and technical tools for transforming electoral violence. The first tool illustrated in this section is mediation, as the ultimate means of electoral crisis resolution. Ten years after the electoral crisis in Kenya, late Kofi Annan’s shared his first-hand experience in leading a mediation effort at the Senior-Level Exchange “From Elections to Peace” on Wednesday 11<sup>th</sup> of April. The transcript of his conversation with Ambassador Grau and participants is followed by an overview of the findings of former Elections Commissioner of Nepal, Bhojraj Pokharel, on the contribution of preventive diplomacy in the context of electoral violence. In his article, Dr. Souhaïl Belhadj, offers a closer look into the Tunisian “Quartet” and highlights the dynamics of a nationally-owned mediation. Coming back to an international and historical perspective, Maarten Halff reflects on “How can one – as adviser or as facilitator – help national actors move past seemingly opposite views, while respecting national sovereignty and sensitivities when addressing reform discussions electoral system design?”. As an illustration of a further mean of conflict transformation, this section also includes an executive summary of a guide co-published by HSD and International Institute for Democracy and Electoral Assistance (International IDEA): “How to facilitate a dialogue on codes of conduct for political parties in elections to encourage restraint and leadership of political parties”. In closing of this, Judge Kriegler shares recommendations to Elections Commissions when facing contested elections. A transcript of the speech of Tamar Zhvania, Chairperson of the Central Election Commission of Georgia, concludes the publication by stressing the importance of professional, transparent and inclusive electoral management.

# Notes on the Introduction

- i Freedom House, *Freedom in the World 2017: Populists and Autocrats: The Dual Threat to Global Democracy*, 2017, available at <https://freedomhouse.org/report/freedom-world/freedom-world-2017>; The Economist Intelligence Unit (EIU), *Democracy Index 2017: Free speech under attack*, 2018 available at [http://www.eiu.com/Handlers/WhitepaperHandler.ashx?fi=Democracy\\_Index\\_2017.pdf&mode=wp&campaignid=DemocracyIndex2017](http://www.eiu.com/Handlers/WhitepaperHandler.ashx?fi=Democracy_Index_2017.pdf&mode=wp&campaignid=DemocracyIndex2017).
- ii Freedom House, *Freedom in the World 2018: Democracy in Crisis*, 2018, available at <https://freedomhouse.org/report/freedom-world/freedom-world-2018>; and Secretary General of the Council of Europe, *State of democracy, human rights and the rule of law: Populism – How strong are Europe’s checks and balances*, 2017, available at <https://edoc.coe.int/en/an-overview/7345-pdf-state-of-democracy-human-rights-and-the-rule-of-law.html>.
- iii The EIU, *Democracy Index 2018: Me too? Political participation, protest and democracy*, 2019 available at [http://www.eiu.com/Handlers/WhitepaperHandler.ashx?fi=Democracy\\_Index\\_2018.pdf&mode=wp&campaignid=Democracy2018](http://www.eiu.com/Handlers/WhitepaperHandler.ashx?fi=Democracy_Index_2018.pdf&mode=wp&campaignid=Democracy2018); The EIU, “The Economist Intelligence Unit’s Democracy Index”, 2019, available at <https://infographics.economist.com/2019/DemocracyIndex/>; International Institute for Democracy and Electoral Assistance (International IDEA), “The Global State of Democracy Indices”, available at <https://www.idea.int/gsod-indices/#/indices/world-map>; and International IDEA, *The Global State of Democracy: Exploring Democracy’s Resilience*, 2017, available at <https://www.idea.int/publications/catalogue/global-state-democracy-exploring-democracys-resilience>.
- iv International IDEA, *Democracy, Conflict and Human Security: Pursuing Peace in the 21st Century*, Stockholm: International IDEA, 2006.
- v Jeff Fischer, “Electoral Conflict and Violence: A Strategy for Study and Prevention”, *IFES White Paper*, 2002.
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- vii David Harland, “The lost art of peacemaking”, *Horizons Spring 2018* (11), 2018.
- viii United Nations General Assembly, *A/72/260*, 2017, para. 26, 27, 28 and 30, available at [https://digitallibrary.un.org/record/1302192/files/A\\_72\\_260-EN.pdf](https://digitallibrary.un.org/record/1302192/files/A_72_260-EN.pdf).
- ix Studies are taking a lower threshold of number of deaths than for armed conflict but also reflect that political and electoral violence is often preceded by more subtle yet severe infringements of political and civil rights such as political incarceration and intimidations. Susan D. Hyde and Nikolay Marinov, “Which Elections Can Be Lost?”, *Political Analysis* 20, 2012; and Scott Straus and Charlie Taylor, “Democratization and Electoral Violence in Sub-Saharan Africa 1990-2007”, *APSA 2009 Toronto Meeting Paper*, Madison WI: University of Wisconsin, Department of Political Science, 2009.
- x The Asia Foundation, *The State of Conflict and Violence in Asia*, 2017, available at <https://asiafoundation.org/publication/state-conflict-violence-asia>; and United Nations Development Programme (UNDP), *Understanding Electoral Violence in Asia*, 2011, available at [https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/electoral\\_systemsandprocesses/understanding\\_electoralviolenceinasia.html](https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/electoral_systemsandprocesses/understanding_electoralviolenceinasia.html).
- xi Jeff Fischer, “Electoral Conflict and Violence: A Strategy for Study and Prevention”, *IFES White Paper*, 2002.
- xii See Kofi Annan Foundation (KAF), “Elections and Peacebuilding: Why the timing and sequencing of transitional elections matter”, *Electoral Integrity Initiative Policy brief 4*, 2017, available at <https://storage.googleapis.com/kofiannanfoundation.org/2017/05/Elections-and-Peacebuilding.pdf>; See also International IDEA, “Timing and Sequencing of Transitional Elections”, *International IDEA Policy Paper 18*, 2019, available at <https://www.idea.int/publications/catalogue/timing-and-sequencing-transitional-elections>.
- xiii See International IDEA, “Electoral Risk Management Tool”, available at <https://www.idea.int/data-tools/tools/electoral-risk-management-tool>; and United States Institute of Peace (USIP), *Factsheet Preventing Election Violence*, 2017, available at <https://www.usip.org/publications/2017/05/preventing-election-violence>.
- xiv Examples include: United States Agency for International Development (USAID), *Best Practices in Electoral Security: A Guide for Democracy, Human Rights, and Governance Programming*, Washington, DC: USAID, 2013, available at [https://www.usaid.gov/sites/default/files/documents/1860/Electoral\\_Security\\_Best\\_Practices\\_USAID-1.pdf](https://www.usaid.gov/sites/default/files/documents/1860/Electoral_Security_Best_Practices_USAID-1.pdf), established with Creative Associate. See also the current webpage of the International Foundation for Electoral Systems (IFES), “Electoral Conflict and Security”, available at <https://www.ifes.org/issues/electoral-conflict-security>. More recently, the UN Development Programme and the European Centre for Electoral Support have also established several initiatives and provide toolbox for donors and technical assistance. A further illustration is provided by the inclusion of monitoring and mitigating measures in the methodology of domestic and international electoral observation: National Democratic Institute, *Monitoring and Mitigating Electoral Violence through non-partisan citizen election observation*, 2014,

available at <https://www.ndi.org/sites/default/files/Monitoring-and-Mitigating-Electoral-Conflict.pdf>; and United Nations (UN), *Declaration of Principles for International Electoral Observation and the Code of Conduct for International Election Observers*, commemorated at the United Nations, 2005, available at <https://eeas.europa.eu/sites/eeas/files/dop-eng.pdf>).

xv See the members of the ACE Project, available at <http://aceproject.org/about-en/ace-partners/>; and the Policy documents on Elections and Peace of the ACE Project, available at <http://aceproject.org/about-en/ace-partners/search?rtype=&country=&topic=&SearchableText=conflict%20prevention&language>.

## 2. Democracy, Elections and Peace

### Advancing Democratisation and Protecting Democracy in a Time of Tumult

Mohammad-Mahmoud Ould Mohamedou · Professor and Head of the International History Department at the Graduate Institute<sup>1</sup>



Professor Mohammad-Mahmoud Ould Mohamedou. © FDFA

#### Abstract

Comprehensive, effective and lasting remedies to conflict are necessarily anchored in a democratic setting or a democratising process. In the absence of that anchoring, peace is at a threat or is not moving forward cogently and lastingly.

Amidst contemporary international affairs' volatility, disorder, disarray, decline and even proliferating talk of 'chaos', safeguarding democracy and bringing it up are dual contemporary pillars of peace-making. If, admittedly, the pursuit of conflict stabilisation and peacebuilding can forge ahead substantially, and indeed generate peace-inducing tangible results, the longer-term removal of the seeds of violent conflicts requires that the larger value of democracy be present or on its way to be introduced in the dynamics of political transition for a violence-free environment to materialise eventually. Put simply, the absence of democracy prolongs a conflict and enables its relapsing, and the weakening of democracy, where democracy already exists, contributes to the materialisation of crises that can grow to endanger a peaceful societal order. Against the background of this dual requirement, the mid-to-late 2010s have witnessed the rise of

a dynamic whereby, around the world, peace and security have become substantially endangered as a result of the weakening of democracy or delaying of democratisation. On the one hand, mostly in the Global South, political orders are unable to move forward lastingly away from conflict because democracy is not (or not properly) introduced and transitions remain incomplete. On the other, principally in the industrialised world, the gradual – now spectacular, now imperceptible – eating away at democracy opens the door to a type of conflict ever more socio-politically insidious. If these reinforced patterns are related in key ways, they are not, however, synonymous.

For the democratic order attacked is so at different stages of development – primarily nurturing here, essentially securing there – and therefore the specific dominant configuration relates differently to the question of peace and its protection. Above all, the current period is explicitly one of a rising and complexifying crisis of democracy that is increasingly going beyond matters of disenchantment to an actual endangerment of the functioning of political systems and of international peace. The twin dynamics of fragilised democracies and fledging democratisations represent today a setback from a more secure and peaceful world as envisaged a quarter of a century ago in the post-Cold War era. The simultaneously soft and hard violence increasingly characterising these two landscapes since the 11 September 2001 events is constitutive of a remapped scene where the absence of legitimate authority is standing in the way of human development in its societal fullness.

Providing peace and security domestically, regionally and globally today spells efforts to tame the twin challenges of division and backsliding.

#### Democracy's new limits

The three main threats to peace and democracy in the developed world are today *intolerance*, *apathy* and what can paradoxically be termed *populist elitism*.

<sup>1</sup> Professor Mohammad-Mahmoud Ould Mohamedou's research focuses on political violence and transnational terrorism, the transformation of warfare, political liberalisation and transitions to democracy, and contemporary Middle Eastern and North African socio-political developments and conflicts.

Firstly, the normalisation and routinisation of racism<sup>2</sup> and the persistence of the drivers of economic exclusion<sup>3</sup> have increased steadily and have widened over more territories in Europe and in the United States in the past twenty years. Racism in particular – in its different anti-Semitic, Islamophobic and anti-Black forms notably – has gained a larger presence across societies, expressed on the mode of a defence of communities and values (e.g., PEGIDA) when it is a manipulation of or an opposition to democratic values from *within* democracies. The preferred Trojan horse scenario of those speaking in such terms is often attributed to foreign religious movements suspected of penetrating democratic polities only to subvert them towards undemocratic regimes. In point of fact, the two main cases of consequential elections won by Islamists, for instance in Algeria in 1991 and in Egypt in 2012 were followed by unconstitutional action undertaken by the military to, respectively, present the Islamic Salvation Front (FIS) from winning the second round of parliamentary elections in January 1992, and unseating President Mohamed Morsi in June 2013. Today, far-right political parties seeking parliamentary representation in Germany and the white supremacist campaigning in support of a presidential candidate in the United States are using the features of the democratic systems of their countries to project racist political projects.

Secondly, this drift is the result of a post-democratic tendency amongst many in the West to take for granted democracies benefit, and as a result be less active in keeping it at bay from dangers when these are slowly emerging. This has allowed more “inner enemies of democracy”,<sup>4</sup> as Tzvetan Todorov phrased it, to gain ascendancy. Consequently, the weakening of the role of the citizens has grown steadily since the new century. Too, the turn to securitisation has enabled the emergence of soft police state dynamics in the heart of the democratic metropolis. As a result, rebellious movements have, to be sure, emerged round the world, notably after the Arab Spring: Los Indignados (Spain), Occupy Wall Street (US), EuroMaidan (Ukraine), Podemos (Spain), Le Balai Citoyen (Burkina Faso), Ça Suffit (Chad), Taksim Square (Turkey), Umbrella Square (Hong Kong), Black Lives Matter (US) and Debout La Nuit (France). However, the dominant securitisation paradigm has stunned the largest segment of the population into emollience. Such emasculation of the citizenry is dangerous to peace as it removes the citizen as an active protector of her polity and pushes him to more radical responses in the face of larger forces: “No mechanisms to institute genuine reform or halt the corporate assault are left within the structures of power... The citizen has become irrelevant. He or she can participate in heavily-choreographed elections, but the demands of corporations and banks are paramount.”<sup>5</sup>

Thirdly, with populist leaders multiplying across Europe – in Hungary and in Poland, for instance – and more right-wing forces, such as in Austria, coming to lead governments, there is a pal-

pable sense in the 2010s that democracy is in crisis.<sup>6</sup> What is less visible is that this very crisis is in and of itself constitutive of a threat to peace. In the name of protecting democracy and the rights of citizens, a new breed of populism has emerged that is on its way to shun the traditional negative tendency commonly ascribed to populism (as a waystation towards more intolerant forms of politics). In effect, candidates eminently from within ‘the system’ (such as US President Donald Trump and his early ties to Wall Street and to Hollywood) have managed to be elected, respectively in 2016 and 2017, as ‘anti-system’ candidates precisely because of such a reordering phenomenon. Many of the new movements speak the language of ‘alternative’ (e.g., the Alternative für Deutschland), ‘authenticity’ and ‘rebirth/renewal’ (e.g., Make American Great Again). The argument of being against the establishment is used to rationalise anti-Semitism, Islamophobia and racism, all underwritten by anti-immigrant populism and the growth of illiberalism. The strengthening of the right-wing in Europe, or its persistent return (as in the case of Italy’s Silvio Berlusconi) is also going along such a dynamic. The US-based alt. right movement is expanding in influence in Europe with, for instance, an initiative known as the New Right. In March 2018, former Goldman Sachs investment banker and White House adviser Steve Bannon toured France, Italy and Switzerland in support of populist movements urging them to nurture these nationalistic tendencies as part of a global historical movement.<sup>7</sup> Indeed, it is no coincidence that the return of a fascist movement is accompanied by the call to make country x, y or z ‘great again.’<sup>8</sup>

These developments have tended to be looked at in terms of a ‘decline’ of a democracy that would be, too, ‘dysfunctional’. In point of fact, we should alter our lens and read these changes more in terms of their dangerousness to not merely democracy but to peace itself and the larger international order. A 2017 Pew Research survey documents this recession warning that “even long-established ‘consolidated’ democracies could lose their commitment to freedom and slip towards more authoritarian politics”.<sup>9</sup> Wealthy billionaires have been able to invest massively in political campaigns to ensure success for their preferred candidates, who can then indulge non-democratic rhetoric thus deepening *the monetisation of democracy*. These issues as considered as soft ones when arguably their eating away at the very fabric of democracy is constitutive already of a threat to peace. For what is peace if not a fragile equilibrium between ethics and actions, and the system built to sustain that equilibrium by way of checks and balances?

## Authoritarianism redux

The main threats to peace and democracy in the developing world are *neo-authoritarianism, persistent conflictuality and political atomisation*.

2 See, for instance, Jim Wolfreys, *Republic of Islamophobia – The Rise of Respectable Racism in France*, London: Hurst Publishers, 2018.

3 See Andrea Flynn et al., *The Hidden Rules of Race – Barriers to an Inclusive Economy*, Cambridge: Cambridge University Press, 2017, in particular Chapter Nine, “The Racial Rules of Democratic Participation”, pp. 145-155.

4 Tzvetan Todorov, *The Inner Enemies of Democracy*, London: Polity, 2014.

5 Chris Hedges, *Wages of Rebellion – The Moral Imperative of Rebellion*, New York: Nation Books, 2015, p. 1.

6 See, notably, Steven Levitsky and Daniel Ziblatt, *How Democracies Die*, New York: Crown, 2018; and Yascha Mounk, *The People vs. Democracy – Why our Freedom is in Danger and How to Save it*, Cambridge, Massachusetts: Harvard University Press, 2018.

7 James McAuley, “‘Let Them Call You Racists’: Steve Bannon Delivers Fighting Speech to France National Front”, *The Washington Post*, 10 March 2018.

8 Rob Riemen, *To Fight Against this Age – On Fascism and Humanism*, New York: W.W. Norton & Company, 2018, p. 26.

9 Richard Wike, Katie Simmons, Bruce Stokes and Janell Fetterolf, *Globally, Broad Support for Representative and Direct Democracy but Many also Endorse Non-democratic Alternatives*, Washington, DC: Pew Research Centre, October 2017, p. 4.

Firstly, at a time when, with power shifting away from the West, the discussion in the Global South about non-Western democracy<sup>10</sup> should be expanding, the trend is the opposite, namely a reaffirmation of authoritarianism, which in turn feeds the West's own back-to-the-future flirting with its own totalitarian past, and indeed newfound authoritarianism. If the weakening of democracy in the West proceeds from a logic reactivating old and familiar traits of fascism,<sup>11</sup> the newfound tyranny in the Global South at once re-energises traditional dispossessive patterns while forming new ones. Once regarded as anathema to a proper transition, explicitly prohibited by the second generation constitutions in Africa after the 1990s and ground of non-engagement by the European Union, term-limitless presidencies-for-life have been reintroduced in China and are courted elsewhere. In the guise of a strong man decisiveness, authoritarianism has come to be regarded as an acceptable, even desirable, form of governance. Whereas classical authoritarianism had to force itself on populations, which were forced to accept it but never missed a chance privately or indirectly through the arts to mock it,<sup>12</sup> its latter-day form is tantamount to despotic demand. The new-old authoritarian regimes in the Global South reassert themselves in at least three innovative ways: (i) by appearing to embody change while crushing it; (ii) by securing international support for, or tolerance of, their campaigns; and (iii) by, more insidiously, sowing doubts amongst their populations about the need for, and value of, democracy.

Secondly, in many transitioning places, democratic deficit is caused by institutional impediments to the actual set up of proper democratic processes, such as limitations and encroachments to freedoms, the absence of (genuine) citizen participation, the disregard of access to (effective) justice and, generally, self-standing empowerment mechanisms. However, it is more often the unceasing presence of violence that threatens more immediately and more directly peace. The inability of states to thwart, contain or prevent violence is paramount before, during and after a political transition. Violence is also difficult to remedy immediately as it is manifested at two levels.

On the one hand, the new situation allows for the entry of new voices, new actors, new agendas, which more often than not turn violent in their competition if a state apparatus is unable to provide a proper and peaceful transition framework. Put simply, transitions to democracy are inherently disorderly, multifaceted and unpredictable, and this is playing out today more than ever. On the other hand, violence can also erupt because the very attempt at introducing democracy inevitably challenges the foundations of the pre-existing undemocratic (and often repressive) political order. In that respect, attempts by members of the former regime to keep it from falling, reinstate it or reconfigure it generate tension, instability and violence.

Thirdly, democratisation in the early twenty-first century<sup>13</sup> in the Global South suffers the negative impact of societal dynamics whereby marginalisation and divide are far more prevalent than the centrifugal patterns needed for a coming together of the transitioning society. Persistent and at times worsening inequalities represent a particular challenge to the democratisation process as they render the formal, sought-after democracy devoid of meaning for destitute citizens. The paradox is that since 1975 more people are living in more democracies but dissatisfaction has increased. (This is also due to the fact more independent countries have emerged since the mid-1970s.) If, therefore, globally, the lot of people in transitioning areas has improved, challenges can take many forms particularly when it comes to the 'softer' sectors of societal dynamics. For instance, whereas social media is celebrated as an agent of positive change (e.g., helping the Arab Spring materialise, enabling the struggle against the violence of Boko Haram in Nigeria, etc...), it can also play a nefarious role as regards peace in a given society. In March 2018, the United Nations Fact-Finding Mission on Myanmar reported, in that regard, that social media had "substantively contributed to the level of acrimony" amongst the wider public in that country, against Rohingya Muslims by way of "hate speech". In fact, the congruence between democracy and peace is strengthened when a community (upliftingly and generously) expresses its shared sense of nationhood and 'common destiny'. Similarly, social volatility, unrest but also absent or poor or superficial redistribution of political power are important impediments to the forging ahead of a democratising project.

Challenges to peace are today arising in both settled democracies, where the fabric of society is strained, and transitioning countries where the value democracy is haphazardly and inconsistently pursued. In terms of trajectory, the paths followed are initially and qualitatively different but they are also related as concerns the overall impact of the state of international affairs, and specifically the rising threats to peace and security. In lieu of spectacular crises and high-profile revolts, slow-motion erosion of ethical politics and the day in, day-out sedimentation on illiberal traits are today the stuff of democratic fragility. At the same time, destabilising the state of democracies with a drumbeat of conflictuality is also a straightforward threat to peace and stability themselves.

10 Richard Youngs, *The Puzzle of Non-Western Democracy*, Washington, DC: Carnegie Endowment for International Peace, 2015.

11 Timothy Snyder lists a number of historical 'instructions' relevant to the current tumult in his *Tyranny – Twenty Lessons from the Twentieth Century*, New York: Random House, 2017.

12 There was, in that regard, a large and rich tradition in Eastern Europe during the Communism years. See, for instance, the novels and plays of Milan Kundera, notably *The Joke* (1967).

13 On the recent global trends of democratic transformation, see Mohammad-Mahmoud Ould Mohamedou and Timothy D. Sisk, eds., *Democratisation in the 21<sup>st</sup> Century – Reviving Transitory*, London: Routledge, 2017; and International Institute for Democracy and Electoral Assistance (IDEA), *The Global State of Democracy – Exploring Democracy's Resilience*, Stockholm: International IDEA, 2017.

# How and Why African Mediators Compromise Democracy

Laurie Nathan · Kroc Institute for International Peace Studies, University of Notre Dame



Laurie Nathan. © Greg Gibson

## Abstract

Where democracy is in tension with peace and security in the course of conflict resolution, mediators face a tough dilemma that has no straightforward solution. The African Union and the sub-regional organizations, including the Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS) and the Southern African Development Community (SADC), have a formal commitment to democracy. Yet when they undertake mediation in high intensity conflict they have often compromised democracy. They have accepted undemocratic power-sharing arrangements; endorsed undemocratic elections; annulled democratic elections; accepted the overthrow of elected governments; and legitimized coup leaders. A general explanation for this tendency is that the mediating bodies prioritize peace and stability above democracy. Their motivation is based on a collective interest in regional stability; humanitarian concerns about the destructive effects of violence and instability in the country in crisis; and the obstacles that fighting and volatility pose to restoring democracy through free and fair elections.

## Introduction

In the African context, mediated negotiations are a common form of ending high intensity conflicts such as coups, civil wars and major electoral disputes. While the details of the mediator's proposals and the agreements concluded by the conflict parties naturally differ from one case to another, the general goal of the mediating bodies is to attain peace, stability, constitutionality and democracy<sup>14</sup>.

<sup>14</sup> For example, African Union (AU), *Protocol Relating to the Establishment of the Peace and Security Council of the African Union*, 9 July 2002; AU, *African Charter on Democracy, Elections and Governance*, 30 January 2007; Southern African Development Community (SADC) *Protocol on Politics, Defence and Security Co-operation*, 14 August 2001; and Economic Community of West African States (ECOWAS), *Protocol on Democracy and Good Governance, Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security*, December 2001.

Given that the introduction or restoration of a democratic system is a primary goal of peacemaking in Africa, it may be surprising to learn that African mediators frequently compromise democracy in their efforts to resolve a conflict. Especially, compromising democracy in a particular case may set a bad precedent for future cases while attracting domestic and international criticisms. In the scholarly literature, there has been no systematic identification and analysis of this phenomenon. This paper<sup>15</sup> looks into a typology of this phenomenon to better explain it:

- Mediators propose or endorse an undemocratic power-sharing arrangement;
- Endorse an undemocratic election;
- Annul a democratic election;
- Accept the overthrow of an elected leader and government;
- Legitimize a coup leader;

Following this typology, the compromises of democracy by mediators is related to four reasons, relating respectively to the mediator's interests, the logic of mediation, pragmatism and the imperative of peace and stability. First, the controversial decisions made by the mediating organization may be driven by its political, ideological or strategic interests. Second, the logic of mediation encompasses negotiation, consensus and inclusivity, leading to compromises of various kinds in order to forge a settlement acceptable to the parties. Third, mediators might dilute or abandon a principled democratic position for the pragmatic reason that they lack the power to compel intransigent parties to accept it. Fourth, in high intensity conflict, mediators may prioritize the attainment of peace and stability above democracy, highlighting the dilemma of sacrificing democracy in the short-run in order to establish peace and stability as pre-requisites for the consolidation of democracy in the long-run.

## Pragmatism due to weakness

Even when the organizations resort to suspension and sanctions in crisis situations, these coercive measures patently do not constitute compelling pressure on the targeted party.

The weakness attributable to the limited power of the organizations is heightened when the AU and a sub-regional body take different approaches to a particular conflict (e.g. CAR 2003, Madagascar 2009, Guinea Bissau 2012 and CAR 2012). The weakness is further exacerbated when the member states of the mediating organization are divided on the best way to address a conflict. Divisions and tensions within and between the relevant African diminish the leverage, reduce the cohesion and impair the decision-making of the mediating entity. Therefore, it explains why mediators have sometimes responded to a coup

<sup>15</sup> The paper does not cover the problem of mediated agreements that compromise justice, such as by granting amnesty for human rights abuses.

by initially demanding the restoration of the status quo ante and then dropping that demand because they lacked the leverage to enforce it (e.g. CAR 2003, Mauritania 2008, Niger 2009 and Madagascar 2009).

The AU's response to the Mauritania coup exemplifies the mediator's impotence. In the months following the overthrow of the government, the AU incrementally stepped up pressure on the junta: on 7 August 2008, the day after the coup, it condemned the seizure of power and called for the re-establishment of the democratic institutions; in September it threatened the coup perpetrators with sanctions and isolation; in November it set a deadline for the imposition of sanctions and warned that it would seek endorsement from the UN Security Council; and in February 2009 it decided that the envisaged sanctions would enter into force<sup>16</sup>. But in May, having failed to budge the junta, the AU backed down, replacing its tough and principled stance with a mediating strategy that would end up compromising democracy<sup>17</sup>.

The outcome of a conflict depends not only on the moves of the mediator but also on the power and strategies of a range of other actors such as the government, rebels, political parties, the army, civil society movements, neighboring states, foreign powers, the regional body, the UN and other multilateral agencies. The power held and exercised by these various actors determines the trajectory of the conflict, the timing of its termination and the nature and content of its resolution. The mediating organization may be a comparatively weak entity in this configuration.

## The logic of mediation

International mediation is a form of conflict resolution with a distinct logic and set of dynamics. Its purpose is not to enable one of the disputants to win but rather to broker a settlement endorsed by all sides. To this end, mediation must be made acceptable to the adversaries, who must in turn cooperate with the mediator<sup>18</sup>.

The essence of mediation refers to a consensual process intended to lead to consensual agreements that the protagonists are willing to implement. If this imperative is not met, there will be no sustainable settlement. Inclusiveness is a further imperative in seeking a lasting settlement – ideally, every substantial domestic party should participate in the mediated negotiations because it represents a constituency and because excluded parties have an interest in disrupting the peace process and rejecting the outcome<sup>19</sup>. These characteristics of mediation are not merely idealistic or abstract considerations. They are evident in the mediation mandates issued by regional organizations. When the AU undertook mediation in Mauritania, it aimed to help the parties

'reach a consensual and inclusive solution to the crises'<sup>20</sup>. Similarly, the SADC communiqué announcing the initiation of mediation in Madagascar called for an 'inclusive dialogue among the Malagasy political actors' and 'urged the Malagasy people to take active ownership' of this dialogue<sup>21</sup>.

In high intensity conflict, the logic of mediation might induce compromises of democracy. There are several reasons for this. First, at least some of the protagonists, whether the government, political parties, rebels or the army, are likely to have little commitment to democracy. Second, a settlement cannot be reached if the adversaries treat the negotiations as a zero-sum game. It necessarily requires concessions and compromises by all the parties. Third, mediators are not enforcers but facilitators. They may promote democratic norms in accordance with their charters but the content of the negotiated agreement must be determined principally by the parties if it is to be owned by them.

## The mediator as an interested actor

The African mediating organizations are far from being disinterested peacemakers. They incorporate the maintenance of peace and security into their mandates, and undertake mediation and other forms of conflict resolution in practice, because they and their member states have collective and national interests in neighborhood conflicts and their resolution. Major intra-state conflicts have negative repercussions for adjacent countries, including the flow of violence, weapons, rebels and refugees across borders. Regional bodies have a political and economic interest in containing and ending such destabilization. They also have a political and organizational interest in subsidiarity, meaning that they want to lead peacemaking endeavors within their respective geographical jurisdictions<sup>22</sup>. The regional organizations on the continent consequently assert the notion of 'African solutions to African problems'.

Although the founding charters of organizations and other legal instruments include respect for democratic principles, this orientation is not shared by all member states. In terms of interests, then, stability is much more important than democracy. Neighboring states are bound to be more concerned about unstable countries (whether democratic nor not) than about undemocratic countries (for as long as they are stable). In some instances it is also relevant that the lead mediator is a president who has scant enthusiasm for democracy<sup>23</sup>.

## Imperative of peace and stability

When mediators enter a high intensity conflict, they are confronted with the urgent challenge of stabilizing the situation so as to prevent violence or an escalation of violence. In these circumstances, it is not uncommon for mediators to prioritize stabi-

16 AU, "Communiqué of the 144<sup>th</sup> Meeting of the Peace and Security Council", 2008; AU, "Communiqué of the 151<sup>st</sup> Meeting of the Peace and Security Council", 2008; AU, "Communiqué of the 163<sup>rd</sup> Meeting of the Peace and Security Council", 2008; and AU, "Communiqué of the 168<sup>th</sup> Meeting of the Peace and Security Council", 2009.

17 AU, "Communiqué of the 186<sup>th</sup> Meeting of the Peace and Security Council", 2009.

18 I. William Zartman and Saadia Touval, "International mediation", in Chester A. Crocker, Fen Hampson and Pamela Aal (eds.), *Leashing the Dogs of War: Conflict Management in a Divided World*, Washington, DC: US Institute for Peace, 2007, pp. 437-438.

19 United Nations (UN), *Guidance for effective Mediation*, 2012, pp. 11-13.

20 AU, "Communiqué of the 186<sup>th</sup> Meeting of the Peace and Security Council", 2009.

21 SADC, "Communiqué Extraordinary Summit of SADC Heads of State and Government: Madagascar", 20 June 2009.

22 Laurie Nathan, "Will the lowest be first? Subsidiarity in Peacemaking in Africa", paper presented at the Annual Convention of the International Studies Association, Atlanta, 2016.

23 Laurie Nathan, "A survey of mediation in African coups", *African Peacebuilding Network Working Papers* 15, 2017.

zation, even at the expense of democratic principles. Motivated by humanitarian principles, this approach is also predicated on the fact that fighting and chronic instability make it impossible to return to constitutional and democratic rule through free and fair elections.

The Madagascar coup provides a good illustration of the mediator's imperative of peace and stability. While SADC initially stipulated that the ousted president must be reinstated immediately and unconditionally, it came to accept that its ultimatum was not only unfeasible, given the intransigence of the junta, but also likely to provoke violence and prolong the crisis. The AU and the UN shared this perspective<sup>24</sup>. SADC consequently adopted the 'ni-ni' solution in the hope that this would forestall violence before and during elections. Seychelles President James Michel, who had hosted some of the mediated talks, maintained that the Summit had 'recognized the risk of violence and instability in relation to the eventual return of former President Ravalomanana' and was convinced that the 'ni-ni' option offered 'the best route towards ensuring peaceful elections'<sup>25</sup>. Michel added that SADC had a duty to protect not only democratic principles but also the lives of the people of member states<sup>26</sup>.

A similar reasoning prevailed in the mediator's response to the Burkina Faso coup in 2015. At the outset, the AU condemned the actions of the coup perpetrators, which included the killing of protestors, and insisted that those responsible should be held accountable<sup>27</sup>. Nevertheless, the ECOWAS mediation team led by President Macky Sall of Senegal produced a draft agreement that granted amnesty to the perpetrators. The proposed deal was denounced by the deposed president, civil society and political parties<sup>28</sup>. Sall defended the deal by asserting that 'our role is to put an end to the escalation of things in order to prevent the country from descending into violence'. The amnesty and other compromises stemmed from 'concerns for the stability of the transition regime' and were required for national reconciliation, without which 'co-habitation would remain impossible within one indivisible Nation'<sup>29</sup>. Although the compromises in this case related more to justice than democracy, they capture well the primacy that mediators afford to peace and stability.

## Conclusion

Where democracy is in tension with peace and security in the course of conflict resolution, mediators face a tough dilemma. On the one hand, as discussed above, there may be compelling reasons to concentrate on peace and stability. On the other hand, compromising democracy is usually unjust, favoring the 'bad guys', prejudicing the 'good guys' and frustrating the aspirations of pro-democracy civil society groups. It also has negative repercussions that go beyond the particular case, setting a bad precedent and potentially reducing the organizations' leverage in future cases<sup>30</sup>. In addition, the compromises undermine the mediating bodies and their policies on democracy, which aim both to promote the well-being of citizens and to prevent violent conflict<sup>31</sup>. There is thus no simple trade-off between democracy and stability or between short-term and long-term considerations. Instead, mediators are confronted with a complex array of political and ethical calculations and are unable to predict the long term consequences of their decisions<sup>32</sup>.

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24 Laurie Nathan, "A clash of norms and strategies", *Mediation Arguments* 4, 2013.

25 "SADC Summit of Heads of State: President's hopes high for Madagascar's future", *Seychelles Nation*, 21 August 2012, accessed at <http://www.nation.sc/article.html?id=235573>.

26 "President Michel addresses SADC Summit of Heads of State and Government", *Seychelles Nation*, 20 August 2012, accessed at <http://www.nation.sc/article.html?id=235557>.

27 AU, "Communiqué of the 544<sup>th</sup> Meeting of the Peace and Security Council", 2015.

28 "Growing opposition in Burkina Faso to regional peace deal", *Agence France-Presse*, 21 September 2015, accessed at <http://news.yahoo.com/growing-opposition-burkina-faso-regional-peace-deal-133455672.html>; and "Burkina president voices reservations about proposed post-coup deal", *Agence France-Presse*, 21 September 2015, accessed at <https://www.enca.com/africa/burkina-president-voices-reservations-about-proposed-post-coup-deal>.

29 ECOWAS, "Final Communiqué: Extraordinary Session of the Authority of Heads of State and Government on the Political Crisis in Burkina Faso", 22 September 2015.

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30 During the negotiations after the Madagascar coup, for example, the leader of the junta argued that the mediators should follow the precedent set by the AU when it allowed the coup leader in Mauritania to stand for election (author's interview with UN official, 2012).

31 For example, African Union (AU), African Charter.

32 Also see Laurie Nathan, "Trends in mediating in Africa Coups, 2000-2015", *paper presented at the Annual Convention of the International Studies Association*, Atlanta, 2016.

# When Democracy is Against Peace.

## The Case of Rejecting Peace Accords in Colombia

Juan Fernando Londoño · Director of the Center for Public Analysis and Advisor of the office of the High Commissioner for Peace in Colombia



Juan Fernando Londoño. © J. F. Londoño

### Abstract

Colombia has a long history of political violence. In less than a decade, in the middle of the 20th century, more than 300.000 people were killed for political reasons. This period is known as “La Violencia” (The Violence). To end that political conflict, political parties accepted to share power in a pact called “Frente Nacional” (The National Front) which Colombians voted in 1957 through a plebiscite to accept the new institutions. This pact included assured alternation in Presidency during 16 years between the Liberal and Conservative parties. Political violence, however, persisted and evolved into new forms. Communist guerrilla movements launched a revolution and attempted to take power through armed struggle. During more than 52 years the fighting was inconclusive, neither the government defeated guerrillas nor the guerrillas seized power. In 2011, President Juan Manuel Santos began a peace process that ended successfully with a Peace Agreement (PA) in 2016. Colombians voted in a plebiscite to ratify the content of the PA and surprisingly rejected it by a razor-thin margin of 54 thousand votes (equivalent to 0.47% of the total vote). In this document, I aim to make sense of what happened in Colombia during the Plebiscite and what lessons for peacemakers it highlights.

### Between a referendum and a plebiscite

The decision to ratify the agreement was carefully crafted as a part of the negotiation agenda. Negotiators in both parts of the table knew that ending five decades of armed confrontation would not be an easy task. The content of the peace talks was not merely a discussion of Disarmament, Demobilization and Reintegration (DDR). They were conceived to remove the structural causes of chronic political violence. To achieve this, negotiators included as core issues of the PA a rural reform, expanded political partic-

ipation, proposed solutions to drug trafficking, and designed a transitional justice system. Such an ambitious plan needed broad political support. All of the issues on the table implied a significant challenge to the *status quo* and entailed a clear confrontation with some powerful sectors of the society and entrenched economic and political interests. The outcome of the PA was not only to end the armed confrontation but also an attempt to build a sustainable and lasting peace. During conversations held in Havana, Cuba, different options were at the table about options for ratification. FARC negotiators (FN) always supported the idea of a Constitutional Assembly (CA). Government negotiators (GN) always rejected it for practical and political reasons. In practical terms, calling for a CA was a long road which required two elections: one to approve the need of a CA, and another to elect its members. In political terms a CA implied a new negotiation of the PA inside the CA. The government insisted on using a mechanism of direct democracy. Firstly, the government proposed a referendum to approve constitutional norms; they even passed a new law (Law 1745 of 2014) which removed the prohibition to make a referendum in any other election. The government’s plan was to include the referendum in the 2015 mayoral and departmental elections. However, the negotiations did not conclude in time to vote the referendum alongside the already scheduled elections and the option was dropped. After that, the GN proposed a Plebiscite which was then accepted by the FN. For that purpose, the government passed a new bill (Law 1806 of 2016) to change the requirements of the voter participation threshold already in place. The new law changed the threshold from 25% to 12.5%. The purpose was to defeat abstentionism – including that which is actively called for by the opposition and that which is common to all Colombian elections. The negotiation talks ended on August 24, 2016 and then on September 26 the government and the FARC signed the PA in Cartagena, Colombia. On October 2 voters rejected the Plebiscite: 6.431.376 votes (50,21%) refused the agreement and 6.377.482 (49,78%). Those results entailed a difference of 53.908 votes, representing 0,47% of the actual voters.

### Learning from mistakes

The hardest and most painful part of the peace process was the government’s failure to win the Plebiscite. The government’s overconfidence in the public’s desire for peace – which the polls suggested was strong – was beset by a strong public rejection of some parts of the PA, in particular those involving political participation for former FARC members, and alternative sentences to individuals allegedly involved in crimes against humanity. While the government meant for the PA to determine if people preferred peace to war, opponents of the peace deal successfully made the narrative one about impunity or justice for former FARC members. There were also a number of mistakes made during the negotiation stage, which lead to that outcome.

First, the peace negotiations were too long. After almost 5 years of negotiations many things happened to swing public opinion. By the end of the peace talks the fighting had already stopped. During the peace process the FARC declared a unilateral ceasefire that dramatically reduced casualties caused by the confrontation, later a bilateral ceasefire was agreed, consolidating the idea that the war was over. By the time of the plebiscite nobody really believed the FARC would resume military confrontation in the case it would fail. Moreover, should the FARC restart fighting, it would reinforce critics' idea that the FARC were never serious about the peace talks. When Colombians went to the polls they did not think of a trade-off between war and peace. Instead they differentiated between what was negotiated in the PA and obtaining a better deal – without concessions on political participation of transitional justice.

Second, the structure of negotiations gave countless opportunities to the opponents of the peace deal. The negotiations were extended because the peace talks were based on the premise that nothing was agreed until everything was agreed. It was a reasonable principle considering alternatives on the table, especially the idea of making partial agreements where the FARC would be involved in the oversight of partial implementation initiatives. This would have implied a moral hazard that was unacceptable for the government. Unfortunately, the strategy of waiting for a final agreement implied a level of secrecy about the content of the agreement – to allow modifications before the agreement was final, such as final concessions to facilitate the end of talks. That option made room for political forces opposed to the peace process to develop a media strategy to discredit and misinterpret the content of the PA. The opposition strategy was so successful that the government had to reveal the partial agreements in the middle of negotiations to reduce the level of distrust caused by the opposition's broad use of fake news. However, it was too late: the seeds of mistrust were already being sowed.

Third, there was a general lack of public awareness about the content of the agreement. The government never developed a strategy to explain the meaning and the contents of the PA. Great swaths of public opinion in Colombia never understood the need for the government to make concessions to the FARC and always expected victor's peace. Opposition groups demanded the government negotiation position should only accept the surrender of the defeated guerilla, which was not the case. The government's strategy should have been to highlight the gains to society from a negotiated peace. Instead the opposition successfully framed the narrative that the government was giving the FARC too much. This situation was worsened during the short time between the signing of the PA and the day of the plebiscite vote. Opposition leaders fill the void of lack of narrative about the peace with slogans about the forthcoming of communism (Castro-chavismo) in Colombia and the impunity for guerilla leaders among others. This served to temporarily increase the state of polarization, where other narratives such as "gender ideology" and same-sex marriage were included as elements to oppose the peace deal to gain the support of other right-wing groups.

## **Mending the agreement**

Ending a 50 years armed conflict was a task of high statecraft in Colombia. After failing to get massive support in the polls, the

government agreed to make adjustments to the text of the PA. Almost all recommendations were included, except those related to putting FARC leaders on jail instead of a system of transitional justice. It was impossible for guerilla leaders to accept a jail sentence after 5 years of negotiations. Its opponents did not endorse the modified text of the PA. In spite of this the government decided to submit the agreement to congressional approval and move toward its implementation stage. This, again, involved Congress to introduce legislation to develop the core issues of the PA. After a couple of months, virtually most of the political support for the PA was vanished as a consequence of the Plebiscite. It is becoming increasingly likely that those who oppose the peace agreement will win the presidential elections in Colombia. The key mistake of the peace agreement in Colombia was not the plebiscite vote but what it demonstrated: there was lack of public support for the content of the Peace Accords.

# Between Voice and Violence: Electoral Processes and Sustaining Peace

Timothy D. Sisk · Professor at the Josef Korbel School of International Studies,  
University of Denver



Professor Timothy D. Sisk. © FDFA

## Introduction

The year 2018 unfolded as a deeply perilous one for democracy and governance worldwide. Some 60 countries globally saw national or major local-level elections this year; each one of them is a unique test of democracy's resilience and of sustaining peace in that context. Many of these elections occurred in countries characterized by major electoral malpractices such as fraudulent manipulation of the process, nefarious illegal influence of money in politics, control or restrictions on the media, coercion and vote-buying, and new threats such as cyber-security, foreign influence in elections, and extremist-tending social media campaigns.<sup>33</sup> Meanwhile, electoral processes unfolded in countries having significant histories of violence; in Afghanistan and Colombia to Mali, Sierra Leone and Venezuela, elections will be potential turning points toward, or away from peace. Other pivotal countries that held elections in 2018 are Bosnia, Iraq, Malaysia, Turkey and Zimbabwe, while still other important elections appeared on the 2019 horizon to include Afghanistan (presidential), Algeria, Democratic Republic of Congo, El Salvador, Guatemala, Haiti, Israel, and South Africa, for example. To help understand the complex and often contested relationships between elections and sustaining peace, this paper presents four findings drawn from scholarly research and practitioner reflection on electoral processes on conflict-affected countries and/or those highly vulnerable to election-related violence.

33 This list of ills in electoral processes reflects the summary finding of threats to electoral integrity from the Electoral Integrity Project; see Pippa Norris, Thomas Wyster, and Sarah Cameron, "Corruption and Coercion: The Year in Elections 2017", *Electoral Integrity Project*, 2018, available at <https://static1.squarespace.com/static/58533f31bebafbe99c85dc9b/t/5aa60e298165f533f6462e58/1520832089983/The+Year+in+Elections+2017.pdf>.

## Finding 1: Electoral Processes can be turning points toward, or away from, peace.

In the early 1990s, especially in countries such as Algeria and Angola, electoral processes were associated with the onset of civil war; in both contexts, civil war emerged (in Algeria) or re-emerged (in Angola) in the wake of contested polls. In these and a myriad of other contexts, particularly in the Balkans, some observers argued that elections are in-essence "conflict-inducing" and that they often occur in contexts of state weakness or fragility when the institutions, processes, and capacity to conduct them are lacking.<sup>34</sup>

At the same time, counter-points such as South Africa's celebrated 1994 electoral process – after which political violence sharply subsided – are pointed to as an example of how under certain conditions electoral processes can and do pivot countries toward democracy, a more legitimate state, and rule-of-law approaches to resolving social conflicts. So, too, the in 2017 Nepal's regional and local elections are seen as the crowning event of a decade-long transition from civil war to democracy. Electoral processes, under certain circumstances, do appear essential to the broader goal of sustaining peace. When elections approach the ideal of a "free and fair" process, they provide legitimacy through direct popular participation, and, in turn, legitimacy creates capacity for effective governance. When voting citizens are provided a direct "voice" in political life; society's trust and willingness to cooperate with the state in achieving development is strengthened. As such, electoral processes are very much about the peaceful management of social conflict through public dialogue, vigorous debate, and the authoritative selection of leaders through electoral rules. For this reason, Sustainable Development Goal 16 (SDG16) includes a target of "responsive, inclusive, participatory, and representative decision-making at all levels," and most major assessment instruments of the quality of democracy and governance include electoral integrity as a critical component of overall effective governance.<sup>35</sup> Elections, however, may well pose imminent threats to peace. Because electoral processes are fundamentally about the attainment of political power, particularly in the high-stakes, conflict-prone, and many times high-corruption environments of fragile states, these polls can be a catalyst of degenerative political conflict over political power that can escalate into violence. In a host of countries worldwide,

34 For a further articulation of this argument, Edward Mansfield and Jack Snyder, *Electing to Fight: Why Emerging Democracies Go to War*, Cambridge, Mass: MIT Press, 2005.

35 See the overview of SDG16, available at <https://www.undp.org/content/undp/en/home/sustainable-development-goals.html>. See also United Nations Development Programme (UNDP), *Monitoring to Implement Peaceful, Just and Inclusive Societies: Pilot Initiative on National-level Monitoring of SDG 16*, Oslo: UNDP Oslo Governance Center, 2017.

civil and political liberties, popular participation, and fundamental human rights are globally threatened.<sup>36</sup>

Corruption and state capture by predatory political elites lead the news, and it is through elections that such autocrats increasingly come to power. Verbal and physical attacks on civil society, the press, and minorities were reported in virtually all world regions.<sup>37</sup> Indeed, elections are subject to a wide range of manipulations that restrict democracy: from repression to unfair rules to exclusion, coercion, corruption, and tutelage, the range of ways in which elites can manipulate electoral processes – “elections without democracy” – are extensive.<sup>38</sup> And even without overt elite manipulation, new virulent, nationalist ideologies that threaten human rights have brought elites and movements to power that are deeply undemocratic in their ideology and practice.<sup>39</sup> Elections are contests over the governance of the state and nature of the “nation.” They are often essential to regimes and the elites who guide them as one critical plank in the “legitimacy to rule.”<sup>40</sup> The contradictory aims of potentially divisive, competitive elections and peacebuilding, have been pointed out by insightful observers who have looked at efforts to use democratization processes to settle civil findings that strongly link polarized electoral processes to election-related violence, and in the worst contexts, the risk of civil war onsets.<sup>41</sup> Thus, understanding the conditions by which elections may contribute to, or pose a threat to, peace is critical.

### **Finding 2: Electoral systems matter for inclusivity, which contributes to sustainable peace.**

A strong determinant of the conditions of elections to contribute to peace is the electoral system. The electoral system is the formula by which votes are aggregated in a democracy to determine the winners and losers of seats in an assembly or office holding. Scholarship on electoral systems focuses on the variety of systems available, their effects, and the specific “devil-is-in-the-detail” aspects of the mathematical conversions that occur when multiple votes are integrated in various systems to determine the winners and losers. Electoral systems also tend to affect how political parties and candidates shape their campaigns and strategies.

In some situations, it may be possible to induce candidates for certain kinds of candidates for office to adopt certain types of appeals toward great moderation. Concern about democracy being vulnerable to extreme ethnic or nationalistic appeals is long-standing in the literature. Concern about the role of ‘ethnic

entrepreneurs’ in democracy dates to 1972, when Alvin Rabushka and Kenneth Shepsle used formal theory (or deductive approaches) to show how vulnerable a moderate centrist core is to outbid along identity lines.<sup>42</sup> Finally, election systems can affect the overall character of the contest in terms of what the competition is for. One of the most enduring findings in the scholarly literature is that no electoral system can maximize all the desirable outcomes that should flow from an electoral process, such as legitimacy, inclusivity, accountability or producing a cohesive, responsive government. Instead, it is often argued that electoral systems involve certain trade-offs; for example, that the principle of majority rule is at odds with the principle of inclusivity. Thus, while there is no perfect system, inclusivity is critical for conflict prevention and for this reason systems that feature some element of proportionality seem more likely to contribute to peace over time... although at the risk of fissiparous party proliferation or polarized pluralism.<sup>43</sup>

### **Finding 3: Extremism, corruption, and state capture drive election-related violence.**

Beyond the effects of an electoral system on inclusivity, the stakes of elections are critical for understanding when elections may contribute, or threaten, peace.

That electoral processes produce winners and losers is an indicator of their capacity to catalyze or to open “windows of vulnerability” to violence: when a strongly insecure party or faction expects to be systematically excluded from political power, they may well turn to violence to either prevent their exclusion or to prevent the election’s success.<sup>44</sup> Recently, scholars have developed a dataset of countries at risk for electoral violence following a typology of violence along a continuum of intensity.<sup>45</sup> Election-related violence is prompted by a broader concern that violent elections have devastating effects on the subsequent legitimacy of the regime, and thus undermines the role of governance in providing security and fostering development in contexts of fragility.

As well, it is widely recognized that electoral moments can become crises that present “windows of vulnerability” during which conflict escalation may be more likely. With this knowledge, as well, both the United Nations Development Program and the United States Agency for International Development have commissioned analyses and lesson-learned stocktaking on the causes of election-related violence to develop conflict prevention ap-

36 See The Economist, “Democracy Continues its Disturbing Retreat”, *Daily Chart*, 31 January 2018, available at <https://www.economist.com/blogs/graphicdetail/2018/01/daily-chart-21>.

37 Human Rights Watch (HRW), *World Report 2018: Events of 2017*, 2017, available at <https://www.hrw.org/world-report/2018>.

38 See Andreas Schedler, “The Menu of Manipulation”, *Journal of Democracy* 13 (2), 2002, pp. 36-50.

39 See Pippa Norris and Ronald Inglehart, *Cultural Backlash and the Rise of Populist Authoritarianism*, Cambridge: Cambridge University Press, 2019, available at <https://www.cambridge.org/core/books/cultural-backlash/3C7CB32722C7BB-8B19A0FC005CAFD02B>.

40 Organisation for Economic Co-operation and Development (OECD), *The State’s Legitimacy in Fragile Situations: Unpacking Complexity*, Paris: OECD, 2010, available at <http://www.oecd.org/dataoecd/45/6/44794487.pdf>.

41 Lars-Erik Cederman, Kristian Skrede Gleditsch, and Simon Hug, “Elections and Ethnic Civil War,” *Comparative Political Studies* 46 (3), 2012.

42 Alvin Rabushka and Kenneth A. Shepsle, *Politics in Plural Societies: A Theory of Democratic Instability*, Columbus: Charles E. Merrill, 1972.

43 Matthijs Bogaards, “The Choice for Proportional Representation: Electoral System Design in Peace Agreements”, *Civil Wars* 15, 2013, pp. 71-87.

44 Kristina Höglund, “Violence in the Midst of Peace Negotiations: Cases from Guatemala, Northern Ireland, South Africa, and Sri Lanka”, *Uppsala University Department of Peace and Conflict Research Report* 69, 2004.

45 Sarah Birch and David Muchlinski, “The Dataset of Countries at Risk of Electoral Violence”, *Terrorism and Political Violence (online)*, 2017, <https://www.tandfonline.com/doi/pdf/10.1080/09546553.2017.1364636?needAccess=true>.

proaches and to improve election security.<sup>46</sup> International IDEA's framework for assessment of electoral risk management does well to distinguish in its analysis into 36 electoral risk factors that are structural or contextual within a context (such as the nature of political parties), and those factors that are internal or related specifically to an electoral process (the ability of the electoral management body to manage crisis).<sup>47</sup>

#### **Finding 4: Holistic Approaches to Conflict Prevention are required**

Efforts to prevent election-related violence have gone much beyond monitoring and observation, together with the overall recognition that effective preventive efforts require attention to the full electoral cycle over time, and in a myriad of formal and informal approaches.

The complexity of contemporary electoral processes, together with the new ways in which information and communication technologies are used for mobilization and for election monitoring have created a rapidly changing terrain. In response, scholars and practitioners must think and plan holistically in identifying risks in electoral processes and to developing new and innovative approaches. Effective prevention tend to focus first on a whole-of-government perspective on the state to improve the capacity and neutrality of the judiciary, to enhance internal processes for human rights monitoring and enforcement among the security forces, for improving the ability and capacity of legislatures to engage in electoral system report, professionalization of security forces, and ensuring that the public authorities work with and engage civil society groups, the media, and key elites in society (such as religious leaders). Focusing on the constitutional and legal framework are essential elements of effective prevention.

Beyond the critical decisions of electoral system choice and design are a wide range of legislative and regulatory issues such as Codes of Conduct for political parties, firearms laws and regulations, the formation of militias allied to or related to political parties, political party registration requirements, and voter registration.<sup>48</sup> Such election-prevention efforts are often related to and informed by efforts to build "infrastructures" or architectures for peace or in contexts where the United Nations has deployed Peace and Development Advisors (PDAs). Improving election administration is a critical and continuous component of improving electoral integrity, which in turn contributes to sustainable peace. Careful and professional management of voter registration pro-

cesses is a critical, first element in the election process (together with clarity, and broad social consensus, on citizenship laws). Equally critical is the boundary delimitation process (districting), which in turn has strong implications for the electoral system, campaign and mobilization dynamics, and inclusivity.

Electoral security is closely related, as electoral processes require safety and security for voters, electoral administration personnel, and ideally candidates can campaign in any locality. Election security in practice at times involves monitoring of political parties that may have associated military wings, militias, "self-protection" forces, or other capacities for violence. Professionalized police and military trainings emphasize protection of candidates, voters, election officials, media, and observers together with security of polling sites, counting or regional centers, transportation of ballots, security of major or mass events, and protection of the electoral management body. While in future some technological solutions (such as blockchain technology) may create conditions for effective and reliable e-voting, thus reducing voting-related fraud or targets for election-related violence, these new approaches appear to be not immediately applicable in many settings. Monitoring and mapping have evolved rapidly with the advent of social media and new technologies such as Geographic Information Systems (GIS). Widespread monitoring by local and international actors of election-related events seems to be positively associated with reductions in election-related violence. Jonas Claes and Geoffrey MacDonald find in their comparative analysis that while monitoring and mapping is overall effective in reducing violence, when it is does occur more monitoring may not be preventive.<sup>49</sup> Finally, holistic efforts increasingly involve regional organizations and networks of regional, national, and local civil society organizations.<sup>50</sup> Regional and sub-regional organizations such as the OAS, the Organization for Security and Co-operation in Europe (OSCE), ECOWAS, the Commonwealth, Southern African Development Community (SADC), or the ASEAN (Association of Southeast Asian Nations) Parliamentarians for Human Rights Forum have played a variety of roles in helping to respond to election-related crisis. These organizations also work in partnership with regional non-governmental organizations such as the Electoral Institute of Southern Africa or global organizations such as the Carter Center or the Netherlands Institute for Multiparty Democracy.

46 UNDP, *Elections and Conflict Prevention: A Guide to Analysis, Planning, and Programming*, Oslo: Bureau for Development Policy Oslo Governance Center, 2009, [https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/electoral\\_systemsandprocesses/elections-and-conflict-prevention-guide.html](https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/electoral_systemsandprocesses/elections-and-conflict-prevention-guide.html) and United States Agency for International Development (USAID), *Best Practices in Electoral Security: A Guide for Democracy, Human Rights, and Governance Programming*, Washington, DC: USAID, 2013, available at [https://www.usaid.gov/sites/default/files/documents/1860/Electoral\\_Security\\_Best\\_Practices\\_USAID-1.pdf](https://www.usaid.gov/sites/default/files/documents/1860/Electoral_Security_Best_Practices_USAID-1.pdf).

47 International Institute for Democracy and Electoral Assistance (International IDEA), "Electoral Risk Management Tool", available at <https://www.idea.int/data-tools/tools/electoral-risk-management-tool>.

48 See International IDEA, *International Electoral Standards: Guidelines for Reviewing the Legal Framework of Elections*, Stockholm: International IDEA, 2001, available at <https://www.idea.int/es/publications/catalogue/international-electoral-standards-guidelines-reviewing-legal-framework>.

49 Jonas Claes and Geoffrey MacDonald, "Findings and Conclusions," in Jonas Claes, ed. *Electing Peace: Violence Prevention and Impact at the Polls*, Washington, DC: United States Institute of Peace Press, 2016.

50 Raul Cordenillo and Andrew Ellis, eds., *The Integrity of Elections: The Role of Regional Organizations*, Stockholm: International IDEA, 2012.

Type of Election	Electoral System Considerations	Conflict Considerations/Common Types of Violence Seen	Issues and Analysis
<i>Presidential</i>	<ul style="list-style-type: none"> <li>■ By definition are majoritarian, winner-take-all contests</li> <li>■ May be single or two-round</li> </ul>	<ul style="list-style-type: none"> <li>■ Usually high-stakes contests</li> <li>■ State repression of opposition, destabilization of voters; crystallization of conflict among two principal factions</li> </ul>	<ul style="list-style-type: none"> <li>■ Much depends on the incentives generated by the details of the electoral system, to include super-majority requirements</li> </ul>
<i>Parliamentary</i>	<ul style="list-style-type: none"> <li>■ Common distinction between district or constituency voting for one or more candidates; in PR list, for political parties</li> <li>■ Can be mixed in a myriad of often complicated ways</li> </ul>	<ul style="list-style-type: none"> <li>■ Political parties tend to feature more heavily in parliamentary polls;</li> <li>■ Party and candidate rivalries are most acute</li> <li>■ Effects of boundary delimitation strongly affect identity conflict dimensions</li> </ul>	<ul style="list-style-type: none"> <li>■ Election violence is not evenly distributed, and certain high-risk areas could be mapped prior to elections to identify this areas</li> <li>■ Critical to determining the extent to which an election result is broadly inclusive of a country's diversity</li> </ul>
<i>Local and Municipal</i>	<ul style="list-style-type: none"> <li>■ Can be mayoral or council (or mixed), mirroring presidential/parliamentary considerations</li> <li>■ Similar choices among electoral systems</li> </ul>	<ul style="list-style-type: none"> <li>■ Localized rivalry and attacks on candidates more likely;</li> <li>■ Competition may be high-stakes for control of local power and resources</li> <li>■ Personalized attacks on candidates and communities</li> </ul>	<ul style="list-style-type: none"> <li>■ Local elections often involve thousands of candidates and potential offices, and because of the scale more diffuse opportunities for intervention strategies</li> </ul>
<i>Constituent Assembly</i>	<ul style="list-style-type: none"> <li>■ Choosing representatives for constitution-making processes</li> <li>■ Tend to be PR in some form</li> </ul>	<ul style="list-style-type: none"> <li>■ Often very high stakes as the composition of the Assembly affects core constitutional matters</li> </ul>	<ul style="list-style-type: none"> <li>■ Although rare in occurrence, such elections – because of their high stakes – deserve especially conflict-sensitive assistance missions</li> </ul>
<i>Referenda</i>	<ul style="list-style-type: none"> <li>■ Majority-rule (50%) or super-majority (66%+) requirements;</li> <li>■ Often resolve major issues, including sovereignty;</li> <li>■ Can contribute to or work against peace</li> </ul>	<ul style="list-style-type: none"> <li>■ May generate significant pre- and post-election violence</li> <li>■ Losers have intense preferences that may surface much later</li> <li>■ Can lead to armed rebellion or mass rioting</li> </ul>	<ul style="list-style-type: none"> <li>■ Commonly used to decide major issues such as sovereignty, however many analysts question whether such measures are appropriate for such volatile questions</li> </ul>

Table 1. Matching Election Type to Conflict Considerations Professor Timothy D. Sisk

# Elections as a Complex Political Exercise: Transcript of an interview with Judge Kriegler<sup>51</sup>

Johann C. Kriegler · Former Justice of the Constitutional Court of South Africa<sup>52</sup>



Kofi Annan, Judge Kriegler and Eka Gigauri. © FDFA

“I think the first absolute necessity for any electoral administrator is to be humble, to realize that you’ve got a great deal to learn about the society in which you work. You’ve got a great deal to find out about the people with whom you have to work. You have to learn a great deal about the political role-players. You’ve got to know the history of the society in which you’re delivering these elections. You must be humble about the limits to your own powers: you cannot conduct a successful election alone, even with the best staff in the world.”

“An election is, of course, a legally controlled and frameworked exercise, and it is an administrative challenge that calls for a great deal of administrative and legal capacity. But ultimately, it’s a political exercise. It’s an exercise in the determination of the location of state power – and that’s a nakedly political exercise, and you must never forget that. Be aware of the legalities of the thing, and the rules, but ultimately, it’s the political reality that has to be taken into consideration very, very seriously.”

“A lack of trust is one of the most serious challenges in troublesome elections: elections in societies in transition, post-conflict elections. A lack of trust among the competitors for political power can – and has on several occasions that I’ve been involved in – upset the whole electoral process and caused it effectively to fail.”

“The first casualty of war is the truth. Certainly, the first casualty of a hotly contested election is also the truth. Rumour just flourishes in the electoral environment. The heat and the pressure of an electoral contest somehow just generate and breed and propagate and proliferate rumours. The only possible way to counteract, but never to entirely defeat rumours, is transparency.”

51 Judge Kriegler made an invaluable input to the *Senior Level Exchange Elections to Peace* in Geneva in April 2019, which can be best summarized by the interview conducted and filmed by Hiroko Miyamura on December 13, 2017 in Cape Town. This is an excerpt and transcript of the film interview.

52 Johann C. Kriegler headed the Independent Electoral Commission for South Africa’s liberation elections in 1994. He has been involved in election administration, evaluation, training, dispute resolution and crisis resolution from East Timor through Afghanistan, Pakistan, Maldives, Egypt and Libya to West and sub-Saharan Africa, notably in Kenya.

# 3. Political and Technical Tools for Transforming Electoral Violence

## Election Crisis Mediation: Conversation with Kofi Annan



Kofi Annan and Ambassador Heidi Grau. © FDFA

This session was dedicated to a conversation between Ambassador Heidi Grau of the Swiss Federal Department of Foreign Affairs and former Secretary-General of the United Nations, Kofi Annan. The excerpt of this conversation covers Mr. Annan's mediation efforts in the 2007 election crisis in Kenya and his work on the 2015 elections in Nigeria as the Chair of the Kofi Annan Foundation. Key questions asked by the audience are also included in this transcript.

### Introduction by Heidi Grau

*Thank you Mr. Annan for joining us during the "Senior-Level Exchange on Elections to Peace". It is a great honor. As a Nobel Peace Prize laureate and a former UN Secretary-General, you have vast experience in mediation. That is of specific interest here. I would like to focus on your experience in the Kenya elections of 2007. You conducted a mediation effort in the aftermath of post-election violence. We saw that even in a relatively stable country, a disputed election can result in a big number of deaths and displaced people. You mediated a coalition agreement in order to prevent crimes of a more massive scale. How did you start this mediation effort? Did you say yes immediately? Did you have moments of doubt?*

### Kofi Annan

I got the request from the African Union - the president of the AU called me and said "we are worried." So we talked, and he called me again a day later and said "I think we should send in a team, and we would like you to lead it." I asked "who are the others?" "The former president of Tanzania and the wife of Mandela" he

said, "and we thought you have better relations with them" so I called them both and they agreed to me leading the team.

However, on my way to the airport I fell very sick. The doctor said we have to keep you in the hospital for two weeks, but in the end we agreed I would do 10 days and then leave, as long as I could keep taking antibiotics whilst I was in Kenya. The time I spent in hospital was actually useful because I could make a lot of calls - things were happening rapidly and we had to act immediately. But I do remember that I saw an article in the Economist. "Annan has conveniently fallen sick", it stated.

When I got to Kenya we had to take steps to reduce tensions. I wanted the leaders to act in a manner that would send a positive signal, so I tried to convince Kibaki and Odinga that they should show the people that they are prepared to solve the issue. During the second day of my stay they shook hands, and the temperature went down in Kenya.

However I did not want to negotiate with them directly, so I asked them for a team - three to four people- from both sides. They both added a lawyer and then a liaison officer, so they had five each. I thought we could make a difference within two weeks, but they could not make a deal, and it took six weeks in the end. The process we went through was also part of the healing. As you know, the mediator cannot want peace more than the protagonists.

### Heidi Grau

*On a practical level, as we all know, mediation relies on process design. How did you approach that? Did you design a specific structure from the beginning?*

### Kofi Annan

When you are thrown in these situations, you have to rely on your experience. You do not have time to focus on the process, and if you are not careful, the process itself becomes the objective. You must be careful not to get trapped. I convinced them we had to address the humanitarian situation, deal with the political conflict, as well as social issues and long-term issues including the constitution. Once we got them to agree on that agenda, we proceeded.

You also have to be careful that the two leaders are not too comfortable. You cannot negotiate indefinitely. After six weeks, we were not making progress and I decided not to go through with

the process anymore. I told them: "this is over." "I will tell the press this phase of the negotiations is over and it is not concluded." They were shocked, as they did not know I would play it this way. After the announcement, I asked to see the two leaders. I told them "I sat with your teams and did not get anywhere. I want to talk to you two" and I told them that they needed to take responsibility.

I wanted them to consider a national unity government. I also got a message across to the people that after the agreement was reached we would publish it immediately in order to put pressure on the leaders to implement it. Some asked me "why didn't you push for a recount of the ballots?" But there was a tense atmosphere, the parties mistrusted each other, and I had no guarantee that new elections would be accepted. The results were such that on the parliamentary side the opposition won more than the government, and I needed to come up with a solution which was viable, would stop the killing and allow the process to move forward.

President Kibaki was somewhat hesitant so we arranged a meeting. I said "look, your neighbor in Tanzania has a President and a Prime Minister"- that was a helpful move and so we brought them (the Tanzanians) in. Then I brought in an expert from Germany who had worked on the agreement between Merkel and the SDP. I took them all to a game park. We had a meal by a lake and animals came to drink: elephants, zebras, etc. I said "look at it. They cooperate very nicely. If they can do it why can't we do it?"

#### **Heidi Grau**

*Some criticisms were voiced that this could encourage political leaders not to accept results in order to be included in a government.*

#### **Kofi Annan**

The idea of a national unity government does not fit everywhere. It was very specific to this context. I do not think there were many other situations similar to the Kenyan situation, and it was not meant to cover other electoral conflicts.

#### **Heidi Grau**

*The electoral field is becoming crowded when it comes to mediation. When you mediated in Kenya, there were also others involved. How did you deal with the multiplicity of actors that wanted to help?*

#### **Kofi Annan**

There has to be clarity. I insisted on a clear process. Otherwise, the leaders go to others. If there is only one process, they cannot play those kinds of games. I was clear that I expected one process; the one by the AU, and I called the UN and EU who assured me they agreed. I told them and others I would let them know when there would be time for them to step in.

When I landed in Kenya, the main question was if the President would receive me. I expected so, as I had a mandate from the AU, to which he belonged. It was also rather impolite not to receive

former heads of state, but when (President) Museveni flew in the midst of it and President (Kibaki) suggest we all meet together, I said "no thanks. I have my own plans." You have to be careful in these circumstances, because you can lose credibility immediately.

#### **Heidi Grau**

*I want to take the opportunity to ask about the elections in Nigeria in 2015. As the Chair of the Kofi Annan Foundation, you supported the successful adoption of an agreement on a Code of Conduct among the presidential candidates. Is this the type of preventive action we should pursue more?*

#### **Kofi Annan**

This Code of Conduct was very important. The Kofi Annan Foundation joined up with people here to let them sign it. I think they all signed it and in the end they respected it. Few people expected it to go as peacefully as it did - the peace committee in Nigeria did a great job. A great deal of credit also goes to civil society and the political parties that were brought together.

People now had trust in the judiciary. They all signed the Code of Conduct and it really played a role. It was a great relief, and a great day for Nigeria to have a democratic change of leadership.

#### **Heidi Grau**

*Today there are a couple of very sensitive pre- and post-electoral context. How can we deal with these situations? What should we do differently in these protracted situations with Presidents that are hesitant to leave power?*

#### **Kofi Annan**

Either the leaders do not listen or they listen but do not hear. In these instances, you see the limits of international pressure. They feel they are secure at home and can resist outside pressure. Normally you need to work with forces at home that want change, but you also need to be careful not to overplay your hand. You want to encourage civil society, but they can be accused of being foreign agents. Lots of outside intervention in DRC and Burundi has not helped. The leaders take away space from civil society. We need to find a way of helping civil society, but too much outside intervention is exploited by the leaders. They play games. The bishops are best in Kinshasa. When I met bishops I said "don't play his games. He negotiates but has no intention of getting to an agreement. It makes you complicit."

#### **Question from the audience**

*Your Excellency, for any mediation to succeed there must be willingness from the stakeholders. How do you handle situations where people play games? To not waste time, how do you overcome such a situation?*

#### **Kofi Annan**

You have to get to know the individual you are dealing with. You need to know how he/she behaves and reacts to a situation. You have to approach with caution and set some limits. If you do not

set limits, they drag you all over the place. In cases where leaders tried to postpone elections and de facto extend their mandate, the international community said "we can negotiate, but we set a deadline because the electoral process requires preparation." You also need to find out who can influence the sitting President, and pressure him or her. This cannot be overdone however - people who like to hold on to power do not like to be lectured. Normally you ask neighboring countries to help, but in some regions, leaders tend to apply a similar strategy. This difficulty also applies to situations when a leader does not care about the welfare of the country and the people. Then you have no pressure points.

#### **Question from the audience**

*What are your comments with regard to the way the UN operates? In countries where there are internal conflicts, the UN leaves at times before the problem is solved and before completing the peacebuilding process. What do you comment on this?*

#### **Kofi Annan**

This is a simple but difficult question. Obviously when you start (a peacebuilding process), you should try to get to the end. In Kenya, I stayed for five years. I did not go there to rearrange political chairs, but to work with them on long-term issues. The next election was reasonably peaceful, so we then closed our office.

The UN has a problem- they need a mandate from the Security Council and they need resources. Unfortunately, the resources play a bigger role than one would expect. There is a tendency to declare victory when it is relatively stable. We now realize many peace agreements fall apart in the first five or ten years, so I agree with your basic premise that mediators should not withdraw too early.

#### **Question from the audience**

*We see that compliance to a Code of Conduct in elections can be problematic. What do we have to be careful about?*

#### **Kofi Annan**

When it comes to Codes of Conduct, transparency is a very powerful tool. It should not happen behind closed doors. In the 2015 Nigerian case, the signature of the Abuja Accord by the presidential candidates was broadcast on television so the people saw it. Any leader who signed the document was held accountable. Doing it publicly is important. It should not be judged by politicians, and Civil society has its role to play. The language must be simple and straightforward.

#### **Question from the audience**

*What is specific about being a mediator in electoral matters?*

#### **Kofi Annan**

It is a question of pressure and timing. In ordinary mediation, you have a bit more time than in electoral mediation. In Kenya, people were dying and we needed a solution as quickly as possible. You have to come up with a solution that not only pleases one side, but both sides. The difference here is the time pressure.

# Preventing Election Violence through Diplomacy<sup>53</sup>

Bhojraj Pokharel · Former Chairman of the Nepalese Election Commission (2006-09) and Member of Core Group of the Kofi Annan Foundation Electoral Integrity Initiative



Bhojraj Pokharel. © FDFA

## Abstract

This research examines the utility of diplomacy in the prevention and mitigation of election violence. It aims to define and characterize preventive diplomacy as an election violence prevention tool; analyze the use of diplomacy during the recent elections of three case study nations; and highlight general conditions for the success and failure of preventive diplomacy. The report ultimately determines that this tool is most effective when initiated early and founded upon strong contextual analysis; conducted in a coordinated, coherent, and adaptive manner; and sustained through the entirety of the election cycle.<sup>53</sup>

## Background

Elections are fragile processes. Their proper conduct is contingent upon the integrity and goodwill of the institutions, stakeholders, and procedures involved. Unfortunately, around one in five elections across the globe continue to suffer from election violence—a phenomenon that poses a threat to election integrity, democratic consolidation, and indeed, peaceful and effective governance. Various tools are applied, both by local/regional actors and the international community, to prevent or mitigate this violence. Preventive diplomacy is one such tool that could prove useful when properly tailored to each context and implemented alongside other relevant initiatives. However, further research is needed to determine its efficacy and optimize its implementation.

This research, initiated through a fellowship at the U.S. Institute of Peace, serves as a qualitative examination of preventive diplo-

macy both in theory and practice. It seeks to answer questions such as: “How should preventive diplomacy be defined if applied for the purpose of election violence prevention?”; “What is the nature of preventive diplomacy in practice? Under which conditions is it most apt to succeed or fail?”; and, “How can the international community better hone its use of preventive diplomacy?” Towards this end, the report evaluates case studies from sub-Saharan Africa (namely, the Democratic Republic of Congo, Kenya, and Nigeria) and ultimately draws generalizable findings and offers policy recommendations towards the improvement of preventive diplomatic engagement.

## Research Methodology and Limitations

The forthcoming report draws upon existing literature, interviews/roundtable discussions with practitioners and academic experts, and case studies to evaluate the efficacy of and conditions under which preventive diplomacy is apt to succeed or fail. Case studies were selected along various measures indicating structural vulnerability to election violence, as well as documented evidence of violence and diplomatic initiatives towards its prevention. The research invited several challenges, including: difficulty of generalizing conclusions due to contextual variability; limited information in the public domain, particularly regarding private diplomatic interactions; difficulty in disentangling the impacts of concurrent conflict prevention tools; and limiting the definition of preventive diplomacy to specific actors and initiatives. It should be noted that the findings of the report are tentative and warrant further examination across more diverse case studies.

To systematically characterize and examine the nature of preventive diplomacy, the report evaluates this complex tool along six interrelated dimensions:

- *Timing* – The stage(s) of the electoral cycle in which diplomatic measures are applied;
- *Mandate* – The informal or formal authority, or charter, which legitimizes and frames diplomatic engagement;
- *Message* – The content of diplomatic engagement, including messages acting as “carrots” and/or “sticks”;
- *Diplomatic Actor* – The originator/deliverer(s) of diplomatic engagement and messaging;
- *Mode of Engagement* – The manner in which diplomatic initiatives are conducted;
- *Target Audience* – The recipient(s) of diplomatic engagement.

The evaluation of preventive diplomacy through this multifaceted lens proved useful in identifying in which contexts different variations of diplomacy were successful or unsuccessful, improving the utility and veracity of subsequent findings and recommendations.

<sup>53</sup> Bhojraj Pokharel published a full publication on the topic as Senior Fellow at United States Institute of Peace (2017): *Preventing Election Violence Through Diplomacy*, United States Institute of Peace Press, 2019.

## Major Findings

While the report's evaluation of the use of preventive diplomacy in three distinct case studies reflects the contextual nature of this unique tool, several commonalities across cases allowed for the tentative drawing of broader conclusions. Chief amongst these are the following:

- Preventive diplomacy is most effective when initiated early and sustained through the entirety of the electoral cycle and based on early/consistent contextual analysis. Diplomatic engagement should seek to address both structural and operational vulnerabilities to election violence, with an emphasis on the former earlier on in the election cycle and the latter as election day approaches.
- Preventive diplomacy is most effective when engagement is consistent over time and coordinated amongst interlocutors. Selective/reactive engagement and conflicting messages can tarnish the provider's credibility and insufficiently address extant vulnerabilities.
- The capacity and commitment of both provider and recipient are paramount to the efficacy of preventive diplomacy.
- Access to key stakeholders, particularly political leadership and electoral management bodies (EMBs), is critical to mission success. These actors are empowered to effect change, and thus must be the primary targets of diplomatic attention.
- Regional and subregional organizations, as well as non-state actors and organizations, possess comparative advantages in the prevention of violence, and are playing increasingly critical roles to this end.
- Diplomacy works best when applied along other independent and interdependent conflict prevention instruments and initiatives such as human rights monitoring.

These findings can be applied to nearly any case across the globe if properly tailored to each context. However, further research is needed to better understand the complex relationship between preventive diplomacy and the risk of election violence.

## Recommendations

The findings of this report invite recommendations regarding a few broad strategies, with corresponding tactical policy options that can help address the practical shortcomings of preventive diplomacy. These recommendations are targeted primarily towards the international community, but may also have utility for regional and national agencies and actors. Highlights of the report's recommendations include the following:

- *The international community must reinforce its commitment to early and sustained engagement, ensuring diplomatic initiatives are informed by timely, comprehensive, and integrated contextual analysis.* Providers should develop collective approach frameworks for risk assessment and consistently conduct integrated/joint assessments; emphasize information sharing between relevant partners; and pursue joint/coordinated diplomatic messaging.
- *International policymakers and relevant donors with the capacity and mandate for preventive diplomacy should invest further in the assessment/monitoring capacity and violence prevention capabilities of regional intergovernmental bodies and local institutions.* Providers should establish/formalize networks of eminent persons and peacebuilders at the regional, national, and subnational levels, investing in their capacity for mobilization; invest in the diplomatic capacities and coordination mechanisms of regional and subregional bodies; mandate/formalize pre-deployment orientation for preventive diplomats, emphasizing character-mapping analysis, conflict dynamics, technical aspects of elections, and potential diplomatic engagement strategies; and develop monitoring and evaluation (M&E) frameworks for assessing preventive diplomatic initiatives.
- *The international community should strengthen diplomatic networks, improving coordination in preventive engagement between international, regional, and local entities.* Providers should empower and include residential diplomats in the planning and implementation of joint prevention efforts; appoint special observers (within established international institutions such as the UN) to monitor election violence; develop country-specific task forces to mobilize in the prevention of election violence; and develop/formalize mechanisms for diplomatic cooperation amongst the supranational, national, and subnational levels.

# The Tunisian 'Quartet' Road Map and the Initiative of the National Dialogue

Souhaïl Belhadj Klaz · Doctor and Research Associate at the Graduate Institute



Dr. Souhaïl Belhadj Klaz. © FDFA

The Tunisian National Dialogue, also known as the 'National Dialogue Quartet', or 'Quartet road map initiative', awarded by the Nobel peace prize in 2015, provided a forum for members of the National Constituent Assembly (NCA) in 2013 to avoid violent conflict and to bring the transitional constitution-making process to a successful ending in January 2014. The promulgation of the Constitution has paved the way for the holding of legislative and presidential elections and the establishment of a new regime breaking with the authoritarian past of Tunisia. The success of this National Dialogue is rooted in the fact that various political parties represented in the National Constituent Assembly adopted two modalities to get out of the political crisis: the implementation of a road map in three stages and mediation within this process by the 'Quartet'. What remains noteworthy in this negotiation process and peaceful initiative is, first, that the 'Quartet' gained such wide public legitimacy despite the fact they were not elected by ballot, in contrast to the NCA parliamentarians; second, that the National Dialogue was conducted outside the NCA, the only body which at the time was democratically elected and had a public mandate. It was essentially the political parties that conducted the negotiations with the 'Quartet'. Hence, even if the 'Constituents' participated in the National Dialogue, it were the main party leaders (not elected representatives) which put forward the line to follow. Therefore, the Tunisian National Dialogue constitutes an experience where democratic elections did not bring about the expected stability and did not avoid a crisis of the political transition process.

## Members of the Tunisian Quartet

This National Dialogue was initiated and facilitated by a quartet of civil society organisations: the Tunisian General Labour Union (UGTT), the Tunisian Confederation of Industry, Trade and Handicrafts (UTICA), the Tunisian Human Rights League (LTDH) and the Tunisian Order of Lawyers. Those civil society groups are quite

known in Tunisia and enjoy a good reputation because their actions are closely linked to social and political battles during the colonial period as well as during the authoritarian rules of Bourguiba and Ben Ali. Moreover, they appear as 'patriotic' civil society organisations by their contribution to the development of post-colonial Tunisia and upholding the formation of the national identity. Among the four civil society organisations, the UGTT is probably the most powerful one, historically playing a major role in Tunisia politics over the past 60 years.

## The context of the Tunisian National Dialogue

In 2013, two years after the ouster of President Ben Ali, Tunisia underwent a series of strikes and unrest that reflect the growing social discontent. At the same time, the security and political climate deteriorated due to repeated attacks of armed extremist groups<sup>54</sup>, but especially the assassinations of Chokri Belaid, a human rights activist and leader of the United Party of Democratic Patriots, and Mohamed Brahmi, Member of the NCA from the Sidi Bouzid constituency, the bedrock of the 2011 popular uprising. In a period of six months, social and security instability and the rise of political violence led to a government crisis: the Jebali Government resigned and the National Unity Government that replaced it, led by Ali Larayedh, was in turn contested. In the summer of 2013, some 60 MPs resigned from the NCA.

The political crisis then turned into a halt of the democratic transition process and a questioning of the legitimacy of the NCA, resulting in the suspension of the Assembly by the NCA President Mustafa Ben Jaafar. Indeed, the constitution-drafting process was, at this time, stalled. Officially started in February 2012, the constitution-drafting was supposed to be completed within a year. This timeframe proved to be overly ambitious, notably because the NCA was also supposed to ensure provisionally a classical legislative work by passing laws and overseeing the Government's action, while it was not clearly defined in its mandate, but also because the NCA was a place of never-ending disputes between the large number of parties it was composed of, disputes which crystallized to be mainly between Islamist and secularist tendencies. This led to an extreme polarisation of the political scene in Tunisia. The restart of the Assembly's work had been conditioned by Ben Jaafar on resuming and enlarging the National Dialogue, initiated in 2012 by the powerful UGTT. At that time, the UGTT had failed in proposing a dialogue to resolve

54 Hatem Kahloun, Souhaïl Belhadj and Corinna Jentsch, *Plural Security in Tunisia: Any non-state alternatives to fill the security "void"?*, The Hague: Plural Security Insights, Clingendael Conflict Research Unit, 2016, pp. 1-28; Larbi Chouikha and Eric Gobe, "La Tunisie post-Ben Ali (2011-2014) : une transition politique pactée ?", in *Histoire de la Tunisie depuis l'indépendance*, pp. 81-100, Paris: La Découverte, coll. "Repères Sociologie", 2015; and International Crisis Group, "Tunisie : lutter contre l'impunité, restaurer la sécurité", *Rapport Moyen-Orient/Afrique du Nord* 123, 2012.

repeated conflicts between strikers and employers, but also between the opposition and the 'Troika' - a coalition of the three main parties in power, including the Islamist party Ennahda. The legitimacy of the National Dialogue process was finally reached through the fact that the UGTT initiative was expanded in 2013 to other leading civil society organizations in Tunisia, notably the UTICA, a traditional adversary of the UGTT in social dialogues and collective bargaining.

### The modalities of the 'Quartet' roadmap process

The two modalities (road map and mediation) put forward by the 'Quartet' on 17 September 2013 foresaw three stages to be achieved in a realistic but limited time frame: 1) the election of an independent election supervisory body (The Independent High Authority for the Elections, ISIE); 2) the appointment of a technocratic government whose members do not exercise an electoral mandate; and 3) the acceleration of the drafting process of the Constitution. In October 2013, 21 NCA parliamentarians of the main parties joined the National Dialogue by signing the road map. In order to allow the three stages of the plan to be realized within a year, a number of political and institutional obstacles had to be overcome. This included first and foremost the mistrust between the two main political forces representing the Islamist and secularist movements (Ennahdha and Nidaa Tounes) and the acceptance by the Parliament to lose control of the political agenda in favour of the National Dialogue process.<sup>55</sup> Furthermore, it was finally agreed to establish ad hoc committees formed by members of the Quartet and the NCA who would oversee the negotiations and ensure coordination between the political parties, a process which could be characterised as a 'parliament within the parliament'. These ad hoc committees, including the 'Consensus Committee' (constituted by 22 parliamentarians and presided over by Ben Jaafar, President of the Assembly) and the 'Liaison Committee' between the NCA and the National Dialogue Quartet, played a key role in the success of the process. Indeed, they were crucial in producing a concrete political compromise, which led to the drafting of the constitutional text, to its amendment, and finally to the adoption of the Constitution in January 2014.

### The political outcomes of the Tunisian National Dialogue

The success of the 'Quartet initiative' lies with the fact that it was initiated and facilitated by the coalition of old, deeply socially entrenched, and so called 'patriotic' civil society organisations, even if those organisations use to support different social interests. Moreover, this success depends on that various political parties represented in the NCA adopted the 'Quartet' plan as a peaceful and 'tailor-made' exit from the political crisis. Hence, National Dialogue allowed for the establishment of a 'national' compromise in a context of strong political and social polarization. Indeed, the outcome of the National Dialogue is rather a political com-

promise to establish a post-authoritarian regime and to restore security order in the country than a 'political consensus'. This is reflected in the text of the Constitution, which has not been able to settle strongly opposed views on religious freedom and freedom of conscience or the obligation of the State to protect the religion, but at the same time to preserve the freedom of expression. The search for a 'soft compromise' in Tunisia had led many times to political immobility and frustration among the young population who have carried the 'revolution'.

The Quartet initiative invites to reflect upon the issue that even though the Parliamentary elections in Tunisia were legitimate and inclusive, they did not have full stabilizing effects. Tensions, social unrest and conflicts, as well as security concerns appeared after the electoral process of 2011. The Constituents election's instability effects could be explained by the fact that the legitimacy of the popular ballot was quickly used by members of the NCA to oversee the Government's action and to attempt to govern the country, although this was not clearly defined as their mandate. This discrediting and form of de-legitimation of the Constituent Assembly stemmed from its members' failure to complete the mandate they were given by the elections, namely, writing the Constitution in a limited period of time. A political compromise was hence established between political parties outside the Assembly via an intermediary of non-elected civil society leaders. Nevertheless, a return to the NCA has permitted to adopt a new Constitution and to forge a culture of political compromise in Tunisia. Even more, the 'Quartet' initiative fostered empowerment of the Tunisian civil society, created a bridge between transitional authorities and finally promoted the political 'sacrifice' (political parties and parliamentarians who accepted to lose control of the political agenda). This process contributes to give greater legitimacy to the 2014 Constitution and the regime that has been put in place as a result.

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55 From the outset of the National Dialogue, the ANC renounced their right to approve the designation of a new Prime Minister with a technocratic profile, in addition to the oversight of the Government's action. See, Chouikha and Eric Gobe "La Tunisie post-Ben Ali (2011-2014) : une transition politique pactée ?", in *Histoire de la Tunisie depuis l'indépendance*, pp. 81-100, Paris: La Découverte, coll. "Repères Sociologie", 2015.

# Minorities, Majorities, and Inclusion in Transitions from War to Democracy: Debates Old and New

Timothy D. Sisk · Professor at the Josef Korbel School of International Studies,  
University of Denver<sup>56</sup>



Professor Timothy D. Sisk. © FDFA

## Introduction: A New Era of “Ethnic” Conflict?

Identity-related conflict is worsening in the cotemporary global context. In 2017, the Minority Rights Group (MRG) reported in its annual *Peoples under Threat* global survey worsening yet another year increased identity-related conflict globally and threats to minorities and indigenous peoples worldwide.<sup>57</sup> Among the top-20 countries that scored highest on its multidimensional index of groups-at-risk to ethnic or religious violence are Syria, Somalia, Iraq, Sudan, Afghanistan, South Sudan, Democratic Republic of Congo, Pakistan, Myanmar, Central African Republic, Yemen, Libya, Nigeria, Ethiopia, Ukraine, Iran, Israel/Palestine, Egypt, Russian Federation, and Mali. Projects that monitor overall patterns of violence globally, and violence or discrimination that involves minorities, appear to concur that trends in the last decade, from 2007-2018, paint a bleak picture. Overall, levels of intrastate conflict have risen since 2007 with a clear upward trend line emerging in 2010.<sup>58</sup> While the “root causes” of such conflict typically lie in interactions among economic, political, and social factors, in their manifestation such violence often crystallizes or is organized along identity-based lines. Contemporary contexts in which ethnic, racial, or religious identity differences are strong manifestations of conflict raise important now longstanding or “old” de-

bates about peacemaking and the design of political institutions in deeply divided societies.

This paper begins with a short but essential review of these longstanding – and still highly relevant – debates on power sharing as a political outcome to identity-related conflicts, highlighting the core differences between models of consociationalism (group-based power sharing) and centripetalism (an integrative approach). The next section reviews some recent findings on new debates around inclusivity in peace processes that envisage a “war-to-democracy” transition in relation to five areas: upstream inclusivity, rethinking presidentialism, electoral system choice and inclusivity, revisiting ethnic federalism, and strengthening social cohesion. A conclusion points to an important finding for policy-makers: while group-based power sharing may in some instances be necessary to stop violent conflict, such pacts may not provide the basis for sustaining peace over time.

## Old debates: Models of democracy in deeply divided societies

When partition is off the table as a solution to today’s internal conflicts (as it generally is, despite some “frozen” conflicts in which self-determination remains the core dispute), some form of power sharing is often, if not always, a necessary element of a broader pact to end war and pivot a country toward non-violent processing of social conflicts. The turn to power sharing reflects a bargaining-based, institutional choice consideration that some combination of security, electoral, federal or territorial, and group-rights guarantees can form the basis for a war-ending settlement, and that over time institutionalization of these guarantees can provide an institutional hardwire (or create permanent incentives) for peace through inclusion, proportionality, decentralization, and fair distribution of resources. Yet power sharing is not a single formula, and protagonists in conflict context and outside mediators must make difficult choices over alternative institutional configurations to craft an inclusive political settlement.

Lijphart’s principles of power sharing – known as “consociational democracy” (derived from the Latin term *consociatio*, to associate in an alliance – was pathbreaking in its differentiation of coalescent democracy from majoritarian democracy. War-ending peace agreements such as the 1989 Ta’if Accord in Lebanon, 1995 Dayton Accords in Bosnia, or the 1998 Belfast Agreement in Northern Ireland are classically consociational in their basic form. Inclusive executives along the lines of a “grand coalition;”

- Proportionality in elections, public appointments and fiscal matters;
- Territorial autonomy or non-territorial (group rights) autonomy, sometimes known as “corporate” autonomy; and

56 Sisk’s research focuses on the nexus between democracy and governance and the management of conflict in deeply divided societies, especially those emerging from civil war. His publications include: *Democracy, Conflict and Human Security: Pursuing Peace in the 21<sup>st</sup> Century*.

57 Minority Rights Group International, *Peoples under Threat 2017: Killings in the “No-Access Zone”*, available at: <http://peoplesunderthreat.org/wp-content/uploads/2013/10/Peoples-under-Threat-2016-briefing1.pdf>. The reference to access refers to the organization’s assessment that violence against minorities happens most often when access of international monitors is restricted.

58 Marie Allansson, Erik Melander, and Lotta Themnér, “Organized Violence, 1989-2016”, *Journal of Peace Research* 54 (4), 2017, pp. 574-587; and Monty G. Marshall and Gabrielle Elzinga-Marshall, “Global Report 2017: Conflict, Governance, and State Fragility”, *Center for Systemic Peace*, 2017.

- Mutual or minority veto such that minorities may exercise self-determination over matters of importance to the group, such as language and education policy.

Scholars continue to differ deeply over whether the consociational power-sharing approach—in which groups are represented as groups (usually through ethnically exclusive political parties) as building blocks of a common society—leads to better conflict management than the integrative (or pluralist) approach, in which practices seek to foster political organizations that transcend ethnic group differences. The integrative approach sees as ideal the creation of pre-election coalitions between ethnic parties or (less common) the creation of broad multiethnic parties on interests that transcend ethnic identities, such as region or common economic interests... a centripetal (inward-spinning) approach. In contrast to the consociational model, Horowitz proposes a typology of five mechanisms aimed at reducing ethnic conflict that have been described as “centripetalism:”

- Dispersions of power, often territorial;
- Devolution of power and measures to promote intra-ethnic competition at the local level;
- Inducements for interethnic cooperation, such as electoral laws that effectively promote pre-election electoral coalitions through vote pooling;
- Policies to encourage alternative social alignments, such as social class or territory, by placing political emphasis on cross-cutting cleavages; and
- Reducing disparities between groups through managed distribution of resources.

The old debates continue to resound in contemporary contexts. Might it be possible in contexts such as Bosnia or Lebanon to move beyond consociationalism toward more integrative solutions? Has open-list PR in South Africa contributed to the demise of a moderate center and ethos of nonracialism and inclusion? Can territorial autonomy work to bring a definitive end to conflict in the Philippines? How effective will reserve seats be for the FARC in the Colombian peace process? Can Iraq move beyond sectarianism in its ruling coalition? Can Nepal achieve as its society transformed from a history of “ranked” group interactions to one of inclusion and remediating historical disadvantaged, all in the context of new ethnic mobilizations? What options exist to resolve the language crisis in Cameroon?

## New debates: Proliferating points of inclusion

While old debates on the efficacy and long-term effects of inclusivity in democracy continue, there are a host of new debates about ways to improve inclusivity in transitions to democracy in conflict-affected countries. The challenge is not to develop a singular model of conflict-regulating practices, but rather to debate the merits and demerits of a menu of conflict-regulating institutions and practices that disputants and mediators can choose from and adapt to the intricacies and challenges of successfully regulating any given context. Moments of transition offer opportunities to make these choices. A study of women’s participation in constitution-making by Nanako Tamaru and Marie O’Reilly showed that constitutional reform is both a common occurrence (they find 75 countries transitioned and undertook constitutional reform in the twenty-five years of 1990-2015), and that such

processes have become much more participatory over time; they also find that these processes failed to achieve inclusivity of women in these processes.<sup>59</sup> This section presents a short overview of five more contentious contemporary debates on democracy in contexts of deep identity-related divisions

### “Upstream inclusivity” in peace processes

Building inclusivity into political settlements may require “upstream” inclusivity in peace processes. How inclusive should peace processes be practically structured, and how can such “upstream inclusivity be best promoted? This debate is central as some research has shown that greater involvement of civil society in peace negotiations leads in a path-dependent way to more durable peace over time.<sup>60</sup> Seminal work on civil society and peacebuilding has identified the functions of civil society’s inclusion in peace processes including the promotion of intergroup social cohesion and has identified seven models of civil society participation in peace and transition processes in eleven country case studies. Indeed, Sara Hellmüller and Marie-Joëlle Zahar find that in the failed or stalled settlement talks on Syria, “Against the odds, progress can be observed at this level as Syrian society has become better organized and more tightly connected, and its voice in the process has grown stronger.”<sup>61</sup>

### Rethinking presidentialism

Presidentialism-related crises capture news headlines from around the world. In DRC, Burundi, Gabon, Rwanda and Uganda in Africa, for example, efforts to eliminate term limits and allow effectively “presidents for life” have been variously successful or stimulated devastating conflict; presidencies in Zimbabwe and South Africa have ended with internal changes of regime in the context of misrule, corruption. The “perils of presidentialism” (as raised decades ago by Juan Linz<sup>62</sup>) is a recurring debate in the literature on “neo-patrimonialism.” Thus, the debates around presidentialism continue. While it might be argued that presidential systems allow for the development of decisive coalitions for evenly distributed national development policies and that they can be inclusive – the presidency of Ellen Johnson Sirleaf in Liberia (2006-2018) affirms that point – presidentialism more typically is fraught with problems: vulnerability to excessive corruption, tendency toward electoral manipulation and fraud, capture of the military, and the development of deep and resistance patronage networks.

59 Nanako Tamaru and Marie O’Reilly, *How Women Influence Constitution Making after Conflict and Unrest*, Washington, DC: Inclusive Security, January 2018, available at <https://www.inclusivesecurity.org/wp-content/uploads/2018/02/How-Women-Influence-Constitution-Making.pdf>.

60 Desirée Nilsson, “Anchoring the Peace: Civil Society Actors in Peace Accords and Durable Peace”, *International Interactions: Empirical and Theoretical Research in International Relations* 38 (2), 2012, pp. 243-266.

61 Sara Hellmüller and Marie-Joëlle Zahar, “Against the Odds: Civil Society in the Intra-Syrian Talks”, *International Peace Institute Issue Brief*, March 2018, available at [https://www.ipinst.org/wp-content/uploads/2018/03/1803\\_Against-the-Odds.pdf](https://www.ipinst.org/wp-content/uploads/2018/03/1803_Against-the-Odds.pdf).

62 Juan Linz, “The Perils of Presidentialism,” *Journal of Democracy* 1 (1), 1990, pp.51-69.

There is no perfect electoral system. For this reason, it appears that many countries affected by conflict, when tasked with the challenge of designing an electoral system anew, have either opted for unusual approaches (such as the adoption of the Single Transferable Vote in Afghanistan, which does not require political parties), simple approaches (such as List-Proportional Representation, or PR, in South Africa, or mixed approaches that combine single-member districts and PR (as in Nepal for its 2017 polls). An appropriate electoral system in a divided society is arguably the most important mechanism through which parties in conflict can adopt a democratic conflict-regulating practice. The debate over which electoral system is best is complicated because electoral system design outcomes are highly dependent on unknowns such as the spatial distribution of votes, shifting party alignments and inter-party pacts, voting behavior, ballot design, and myriad other variables. Proportional representation (PR) can serve as the basis for determining the relative weight of various groups in terms of proportional representation in executive, legislative, and administrative arenas, especially when census data are inaccurate, suspicious, or absent. A critical issue is whether a simple PR system is expected to fragment the party system over time and what the implications of such fragmentation may be. A second issue is the appreciation that PR systems may not mitigate the effects of majority domination when the majority bloc is sufficiently cohesive.

#### *Revisiting "ethnic federalism"*

The debate over ethnic federalism is an enduring one, and it is seen in modern manifestations in contexts such as Ethiopia, Nepal, Ukraine and South Sudan. Under the right circumstances, territorially concentrated ethnic groups, particularly minority groups, can be accommodated through sustainable autonomy arrangements. Agreements are reached between the rump government and the autonomous units over issues such as economic and foreign relations and regional commerce. Decisions on these limited issues are made jointly. Critical variables are the degree of economic interdependence, the structure of fiscal relations, and the balance of dependency... and the size of the country, one argument which was made against ethnic federalism and group-based territorial autonomy in Nepal.<sup>63</sup> While the broader debates on ethnic federalism continue, focus in peacebuilding has turned to local dynamics and local action in often newly decentralized state structures. A cross-national study of local dynamics in eight countries undertaken by a consortium of U.S., Norwegian, Nepali and South African researchers found that while decentralization, which has been commonly considered as an essential peacebuilding instrument, has multiple and often contradictory implications.<sup>64</sup> Rapidly changing local conditions in the aftermath of conflict mean that effective aid intervention likewise must adjust rapidly to secure local knowledge and appropriate partners. Social, spatial, economic, and local-political assessments are need-

ed to identify appropriate actors and practices to avoid capture by narrow interests.<sup>65</sup>

#### *Strengthening social cohesion*

Social cohesion recently has become an overarching issue for peacebuilding actors working in countries affected by identity-based conflict. This approach focuses on issues of national identity, trust in the state, trust in society, economic interdependence, and development of a country or context's (such as a city) sense of shared or common destiny. Social cohesion programming has developed in both direct efforts to strengthen cohesion, for example through national networks and infrastructures for peace, and through indirect approach such as youth programming and peace messaging. In a seven-country comparative research project, Fletcher Cox and Timothy Sisk found that:

While the social cohesion approach to peacebuilding remains highly relevant, we argue that it has not yet reached its full potential for improving peacebuilding interventions in divided societies. Critically, the reason that many international efforts to foster cohesion across the cases is that interventions have not dealt adequately with core drivers of persistent inter-group fear along local, communal, and state levels of analysis. This finding holds across all seven cases.<sup>66</sup>

#### **Conclusion**

There seems to be general agreement that group-based power-sharing peace agreements, while potentially necessary to end wars, tend to become obsolete over time and they may require re-opening of the Pandora's box of peace agreement terms. Some have suggested that at least one way to resolve the problem is to negotiate, in the first place, sunset clauses whereby the more fixed or rigid elements of power sharing expire over time. Others admonish international policy makers to pay more attention to integrative options in war-ending pacts and to avoid rigid power-sharing agreements. While these are useful suggestions, alas they do not sufficiently solve the fundamental dilemma of how to balance the initial demands for certainty of power-sharing pacts with the uncertainty created in the renegotiation of social contracts over time.

63 Subindra Bogati and Timothy D. Sisk, "The Elusive 'New Nepal: Democratization, Ethnic Politics in a Plural Society", *Wits School of Governance Working Paper Series: Resilient Social Contract*, Johannesburg: University of Witwatersrand, 2018, available at [http://www.socialcontractsforpeace.org/wp-content/uploads/2018/12/Resilient-Social-Contract\\_Nepal\\_case-study-9.2018.pdf](http://www.socialcontractsforpeace.org/wp-content/uploads/2018/12/Resilient-Social-Contract_Nepal_case-study-9.2018.pdf).

64 The project's final report is available at [https://www.du.edu/korbel/sie/research/sisk\\_innovations\\_in\\_peacebuilding.html](https://www.du.edu/korbel/sie/research/sisk_innovations_in_peacebuilding.html).

65 Astri Suhrke and Timothy D. Sisk, "Innovations in Peacebuilding: International Norms and Local Dynamics in Conflict-affected Countries", *Josef Korbel School of International Studies*, March 2018. The final report is found at [https://www.du.edu/korbel/sie/research/sisk\\_innovations\\_in\\_peacebuilding.html](https://www.du.edu/korbel/sie/research/sisk_innovations_in_peacebuilding.html).

66 Fletcher D. Cox and Timothy D. Sisk, eds. *Peacebuilding in Deeply Divided Societies: Toward Social Cohesion?* London: Palgrave, 2017. The quotation is found in the project's research report: Fletcher D. Cox, Catherine R. Orsborn, and Timothy D. Sisk, *Religion, Peacebuilding, and Social Cohesion in Conflict-affected Countries*, available at [https://www.du.edu/korbel/sie/media/documents/faculty\\_pubs/sisk/religion-and-social-cohesion-reports/rsc-researchreport.pdf](https://www.du.edu/korbel/sie/media/documents/faculty_pubs/sisk/religion-and-social-cohesion-reports/rsc-researchreport.pdf).

# Electoral System Reform According to Erasmus of Rotterdam, or: Old Proverbs in New Electoral Bottles

Maarten Halff<sup>67</sup>



Maarten Halff. © FDFA

At the beginning of the 16<sup>th</sup> century, the Dutch humanist Desiderius Erasmus of Rotterdam began a vast literary undertaking: to collect and register, from oral usage, all the proverbs and idioms that he could find. His work, which eventually grew to over 4,000 entries, circulated widely in his days. Many proverbs in his collection have become commonplace in languages of a western European origin. For many, we owe their continued use to Erasmus. Erasmus did not actually write about electoral systems. I want to suggest, however, that some of the expressions from his collection are very useful when we want to discuss the *process of designing or reforming* an electoral system. Such processes are not as well studied as electoral systems themselves. They raise questions such as: under what conditions are reform discussions more likely to lead to a successful design? How can one – as adviser or as facilitator – help national actors move past seemingly opposite views, while respecting national sovereignty and sensitivities, in other words: without imposing or prescribing solutions? Erasmus' proverbs are helpful here because they draw on a shared human experience in order to provide insights, rather than instructions; because they offer reflections, not rules; and because they aim to edify, not to criticize.

**“Don't place the cart before the horse”: don't pick an electoral system before agreeing on what it's supposed to do.**

It is tempting to frame a discussion on electoral systems around well-known acronyms such as PR, FPTP and SNTV, and to go

straight to the relative advantages and disadvantages of each principal system. But electoral systems are tools to be designed in context; they are not canned products to pick from a shelf. As in other areas of conflict management, it helps to look past stated *positions* about preferred systems, and to first unpack the underlying *interests*. What does representation mean to each group or actor? What would a person from the country consider to be a representative body? What features should the election and the resulting body have? Should it promote accountability, or dialogue, or political stability; or should it reduce wasted votes? Asking such questions can, in some cases, open windows to new solutions.

In 2015 in Afghanistan, for example, a national reform commission was tasked with developing a new system to replace the often criticized SNTV (single non-transferable vote system). Dialogue quickly got stuck between those who wanted proportional representation, to focus on parties, and those who wanted to move to a single-member, first-past-the-post model, one that would revolve around candidates. For a while, it was believed that a parallel option, having the two systems alongside each other, could be the only compromise solution. But this just led to more complications. On closer examination, the commission realized that it would be possible to design a system which revolved around individuals, affiliated with a list or not, in which it was possible to give some proportional benefit to list-affiliated candidates by pooling their individual votes. In other words, it was possible to identify some middle ground between the different interests, something which a discussion about simply PR versus FPTP had not allowed. The commission adopted this as its proposed new model, which it called *multi-dimensional representation*. In February 2019, Afghanistan's electoral law was amended to provide for elections by the multi-dimensional representation system.

During the national conferences leading to the adoption of Somalia's provisional constitution in 2012, there had been calls for explicitly anchoring PR in the document. Some form of PR may indeed be suitable in the context of Somalia. But at the time, there had hardly been a discussion about what an electoral system should do, and what a national body should look like. Ultimately, the conference took a wise decision not to simply include the label of an electoral system in the constitution at that stage, and instead to state its broad desirable features.

**“A good start is half the work”**

A variation on the previous proverb: it is critical to have an honest dialogue about what a reform is supposed to change or fix politically – rather than just asking which system would work best. If nothing else, it might be possible to have people on opposite sides of a political debate agree on at least a diagnosis of the underlying representation challenges facing a country.

67 Senior Political Affairs Officer, United Nations Electoral Assistance Division, Department of Political and Peacebuilding Affairs. Maarten Halff is responsible for United Nations electoral assistance policy. He has advised national authorities in Afghanistan, Iraq, Jordan, Liberia, Libya, Malaysia, Nepal and Somalia. The views expressed herein are those of the author and do not necessarily reflect those of the United Nations.

Another example from Afghanistan. In 2016 and 2017, there was a strong wish in some parts of the country to create smaller constituencies, possibly even single-member districts. The reasoning given for such a change was that SNTV, with its multi-member constituencies, was unfair since a few larger tribes had gotten only one representative elected in their respective province, whereas based on their population numbers alone they should have been entitled to more. A much closer look showed, however, that the cause of what is a genuine representation problem was not just the size of the constituencies. Rather, in some cases there were simply too many individual candidates from one and the same tribe in relation to its population size: these candidates were, in essence, spreading the same vote pool very thin, reducing each candidate's votes in comparison to candidates from other tribes. (Other significant factor in Afghanistan is insecurity: this affects different populations and their turnout unevenly across the country).

### **“The devil is in the detail”: don't stop at the electoral system handbooks (as good as they are)**

The term electoral system *design* appropriately conveys an element of creativity. The process of blending constituency sizes, electoral formulas, ballot structures and other details is highly intricate, and comes with risks and opportunities which often depend on the context. Handbooks simply cannot cover all of these different situations. Looking out for details is critical, for example, when it comes to quotas for women or other under-represented groups. It is not enough to require, say, a one third minimum representation of women in a parliament. One also needs a formula to achieve that goal within the context of the electoral system. This may seem like an obvious point, but there are instances where it has not happened. In one nameless country, for example, its new constitution introduced, for the first time, a guarantee that at least a third of the lower house of parliament will consist of women. The constitution also describes the electoral system in considerable detail: an FPTP system, along with some reserved seats for women. The problem is that the number of those reserved seats falls far short of the one-third requirement, and that, in the cultural and political context of the country, the FPTP race provides more limited chances for women to get elected. In other words, the details of the electoral system in the constitution are such that the same constitution's aspirations for the representation of women cannot be guaranteed.

### **“Don't judge a book by its cover”: don't assess an electoral system based on its reputation alone**

Proportional representation – or other systems with proportional features – is widely seen as offering better chances for political inclusion, and therefore for conflict prevention. And while its drawbacks are recognized, PR on the whole enjoys a solid reputation, with good reasons. That does not, however, mean it is the best solution in any post-conflict situation or divided society, or indeed the solution that political actors will always agree upon.

To make this point, it is helpful to consider another system, the Single Non-Transferable Vote (SNTV), already mentioned in the context of Afghanistan. Academic studies and policy briefs have given it a more checkered reputation. For example, it is often

criticized for being an oddity, for being vulnerable to tactical voting behavior and unsuitable for parliamentary representation, as well as a possible tool to weaken political parties. But that reputation of rarity and unsuitability is not so easy to reconcile with the fact that SNTV was used for decades in Japan, as well as for a number of election cycles in Jordan and in Thailand as part of parallel electoral systems. SNTV was also adopted as part of the first post-revolutionary system in Libya in 2012, and it was done deliberately so: national actors were clear that they wanted something simple, that it was not possible to redefine existing multi-member constituencies, and that the system had to revolve – at least in part – around individual candidates, not parties. This, in effect, is an SNTV system.

The point is not to champion SNTV as a model to follow. Its challenges are well known. Rather, it is to say that under certain circumstances, even if an approach has been criticized in studies or by observers, it may well be the least bad and most broadly accepted option.

### **“The ground becomes clearer when not sitting on a high horse”: criticism of an electoral system may obscure the political interests that lie behind them**

Agreeing on a system to elect a country's legislative branch or government typically requires a fair amount of compromise. Particularly in a post-conflict setting, there will be divergent interests and notions of what representation means, and of what it will take for trust to be gradually restored in politics. The result may include features that, to an outsider, may appear less than ideal or less “democratic” (although it is hard to agree on what that term means).

The system adopted in Libya in early 2012, mentioned earlier, was a compromise between various groups that had been at the center of the revolution. One was a larger organization with a nationwide structure, others had a more fragmented geographic base. Their compromise resulted in a complicated mosaic of constituencies for two parallel races, one in which not every citizen would be able to vote in each race. In other words, the system did not provide for a full equality of the vote. The Libyan political actors fully understood these implications, and knowingly accepted them as the imperfect product of a carefully crafted compromise.

The international criticism of the system that followed made it harder to recognize, firstly, that this was a solution that had been thoroughly negotiated and that had acquired broad support among very diverse political groups. Secondly, it clouded the ability to see that what mattered most at the time, and perhaps still does now, was a careful calibration of the *geographic* representation of the different parts of the country.

### **“The tiger cannot change its stripes”: politicians are unlikely to vote against their own interests when it comes to changing a system**

A politician's interest in changing an electoral system could be driven primarily by seeking a system that would maximize her or his votes into seats. It could also draw on a more diffuse hope

of being rewarded by voters for having adopted changes in response to popular demand. Neither of these strategic self-interests are negative in themselves; they are simply a reality to remember while engaging with political actors and discussing options and alternatives. This is of course not to say that anything goes. Or that one cannot or should not pursue, even vigorously so, electoral system options that can bring about more inclusion or greater stability. But taking politicians' perspectives into account helps in moving beyond *positions* to underlying *interests*. And this returns us – full circle – to the first proverb, about the importance of coming to a deep understanding of actors' strategic considerations. It is when we as advisers or facilitators, and the actors themselves, can clearly articulate their genuine representation concerns that electoral system design can be most successful.

# Dialogues on Voluntary Codes of Conduct for Political Parties in Elections: A Facilitator's Guide

Editors Tatiana Monney · Federal Department for Foreign Affairs and

Jorge Valladares Molleda · International Institute for Democracy and Electoral Assistance<sup>68</sup>



Tatiana Monney. © FDFA

Jorge Valladares Molleda. © Inter. IDEA

## Abstract

Elections, if they are inclusive and fair, can have a stabilizing effect on post-conflict and transitioning democracies. The competitive nature of elections can however provide entry points for violence and conflict, which can derail peace and the first steps in a transition. The conduct of political parties is central to the protection of peacebuilding and democratic efforts. Political parties can either fuel electoral violence, or help to deter or resolve violent situations. Codes of conduct have proved particularly useful in enabling political parties to reaffirm their commitments to fair play in elections.<sup>68</sup>

This guide captures lessons learned from all continents for facilitators of voluntary codes of conduct. It offers a menu of options and case studies from across the globe, with a focus on the importance of process and facilitation as much as on the content of the agreements. The authors of this guide suggest that a code of conduct for political parties is more likely to achieve its goals when produced as part of a consultative dialogue and negotiations with the political parties, and supported by monitoring mechanisms to offer a feedback on the degree of compliance by the political parties. The monitoring mechanism might rely on peer-to-peer mechanism and include national as well as international electoral observation.

The guide is the result of a collaboration between the Human Security Division of the Swiss Federal Department of Foreign Af-

fairs (FDFA) and the International Institute for Democracy and Electoral Assistance (International IDEA). Both institutions hope to contribute to the efforts of those working as honest brokers of dialogues on democratic reform and peacebuilding, as well as the development of codes of conduct for political parties in elections around the world.

**Codes of Conduct and voluntary pledges:** Kenya (2011), Ghana (2012), Tunisia (2014), Myanmar (2015), Nigeria (2015), Nepal (2015-2016), Peru (2016).

## What is a code of conduct?

A code of conduct (CoC) is a set of principles and standards of behaviour that persons engaged in a particular area of business or competition are expected to follow. The Hippocratic Oath taken by physicians is perhaps the oldest example of the spirit of a CoC. As a formal oath to do no harm, undertaken to uphold specific ethical standards, it is an action in the public interest. Even if there is no direct legal means of enforcement, the oath provides a known standard to which a physician voluntarily commits, and it guides their behaviour. Informal and legally non-binding commitments to meet certain standards of conduct are common across societies and cultures, as well as in business and international relations. Examples include 'honour pledges', 'solemn oaths', a person's 'word of honour' and 'vows'. The essence of such commitments relies on the honour of those who pledge to fulfil them and the trust they want to inspire. Infringing the commitment may result in reputational costs that will have a negative impact on the trust between parties to an agreement and/or other stakeholders in a process, who might then opt for an alternative solution. Formal CoCs often guide the conduct of public officials when dealing with public affairs, and professionals such as lawyers or doctors also abide by specific, formally stated ethical standards in the conduct of their professional duties.

## Codes of conduct in electoral contexts

During an election, it is common for political parties to adopt and abide by an agreed CoC to regulate the behaviour of parties, candidates and their supporters. Such codes may also be developed for citizen observers, the media, election officials and security forces. The subject of this guide is voluntarily agreed codes, in particular those negotiated between political parties and candidates. Although the product of negotiations between political parties, a CoC should not be confused with other types of political agreement such as government coalitions or power-sharing agreements.

<sup>68</sup> Monney, T. and Valladares Molleda J., *Dialogues on Voluntary Codes of Conduct for Political Parties in Elections – A Facilitator's Guide*, Swiss Federal Department of Foreign Affairs and International IDEA, 2017, available at <https://www.idea.int/sites/default/files/publications/dialogues-on-voluntary-codes-of-conduct-for-political-parties-in-elections.pdf>.

## Why develop a code of conduct?

In liberal democracies, political parties often feel that self-regulation is the most appropriate means for governing their relationships with one another and bringing some order to their competition. During transitions to democracy, or in fragile and conflict-affected contexts in which the political climate is more polarized, a CoC can: (i) fill gaps in the legal framework governing elections; (ii) compensate for the lack of state capacity to formally regulate or enforce the law; (iii) help to address a lack of political will or incentives to formally regulate or enforce existing laws; (iv) help to strengthen the legitimacy of an election or the electoral system in certain situations where this is otherwise an issue; and (v) help to strengthen the democratic culture. In all these contexts, the benefit of a CoC — compared to the law or specific regulations — is its ethical dimension. In other words, a CoC can cover behaviour that the law does not address. A CoC can for instance be an opportunity for political parties to advance measures to promote gender balance, inclusion or transparency in the electoral process. It can also be useful when seeking to enhance the programmatic quality of election campaigns and citizen participation.

## Monitoring and fact finding

A CoC may devise a process for measuring the degree, and identifying any trends or emerging needs of compliance. This should be supported by strong capacities to investigate and monitor any breach. This would make it possible to clarify and verify claims, and establish responsibility for alleged breaches. A country may have existing monitoring capacities that are specific to elections, or carry out more general monitoring of political processes, such as: (i) the EMB usually has a mandate to monitor whether electoral offences are being committed, including monitoring through its field operations; (ii) other enforcement agencies (police, prosecutors and the judiciary) are generally responsible for ensuring respect for the law (e.g. policing violence) and may have capacities dedicated to election security; (iii) election observers, international and domestic, can provide non-partisan election monitoring; (iv) political parties have internal structures for receiving information from their regional and local offices, and often also have internal disciplinary and complaints mechanisms; (v) crowdsourcing platforms can be useful for reporting verifiable election-related incidents; (vi) media monitoring platforms and investigative journalism can aggregate news coverage to identify election trends or conduct investigations of alleged violations. The CoC could also establish its own monitoring mechanisms to aggregate, filter, systematize and verify information relevant to CoC compliance. This might involve creating a dedicated secretariat or establishing formal or informal partnerships with watchdogs. The monitoring mechanism might opt for a decentralized structure to ensure the widest possible reach.

## Risks

When designing the implementation mechanisms for a CoC, a careful risk analysis should be carried out and precautions will need to be taken. To avoid confusion with formal adjudication, it is important to clarify the difference between criminal and un-

ethical conduct as well as between formal electoral adjudication processes and the alternative dispute resolution created by inter-party monitoring mechanism. The risk of a misunderstanding can be minimized by carefully designing the mandate and rules of inter-party mechanisms to make it clear how they differ from formal legal frameworks for addressing electoral disputes. Another risk is political misuse, whereby Political parties could use accusations of a breach of the CoC as a political weapon against one another, which would be contrary to the spirit of improving inter-party relations. The CoC should contain provisions to discourage this, or the terms of reference for the implementation and monitoring mechanisms should be designed to minimize this risk. Myanmar's 2015 CoC contained a provision that encouraged all parties to 'cooperate so as to ensure that the Committee does not become a place that promotes propaganda for, or attacks on, an individual party or group of parties'. In Tunisia in 2014, all parties undertook 'not to abuse the right of appeal and complaint and to refrain from making false, frivolous or vexatious claims with the aim of hindering or discrediting the electoral process'. After a CoC has been signed and publicized, people will expect immediate changes in political culture and be disappointed if they do not occur. Public expectations should be kept in check by reminding voters that a CoC should not be seen as a panacea, but as a tool for improving the electoral process.

# Reflections on Politically Difficult Elections: Judge Kriegler's Recommendations to Elections Administrators<sup>69</sup>

Transcript of an interview with Judge Johann C. Kriegler

## Reflecting on your experiences, what would be your message to election commissioners in handling political high-stakes elections which has the potential for violence?

I would suggest that in due humility, an electoral administrator, particularly in a post-violent society, should be idealistic, yes, but also a realist. In many respects the election may be a continuation of the conflict that has been militarily settled but is still certainly politically and ethnically very much alive. You cannot bake the cake alone; nor can you build Rome in a day. Your first elections in a post-violent society are likely to be messy, even the second and the third. It's only if you improve each time that you can say you have been successful.<sup>69</sup>

So, be humble about your own abilities, humble about the political realities, humble about your objectives. And I think lastly, you must be prepared to accept that something is going to go wrong. One absolute universal truth about all elections is that something somewhere will go wrong – that, you must know. Inversely, as certain is that you must know that you are going to get the blame for it, whether or not you are at fault in the first place. The fingers will be pointed at you, and one of the objectives of your run-up to the election will be to ensure that that blame is aimed at you in a spirit of goodwill, not enmity; in a spirit of understanding, not dire criticism; and ultimately, also, that criticism must be leveled in the knowledge that you are humanely fallible but honest. You've done your best, things went wrong, but it wasn't because of any lack of impartiality on your part. [...]

## Where there is a lack of trust, what can be done?

An Electoral Management Body (EMB) can only do so much as to recognizing the limits of one's power. I would suggest that one takes as an example – the one with which I am the most familiar – namely, South Africa. In its first and most tricky transitional elections, where we managed to pull off the exercise only through the willingness of civil society to bring pressure to bear on the political leadership. [Where] the political leadership, "strongmen", controls all society, it is very, very difficult. And it is therefore as important as the logistics of the electoral exercise for the EMB to establish links with as broad a spectrum of influence makers in that society -- political leaders, the religious leaders, social leaders, electoral observers, the media in particular -- to ensure that as broad a spectrum as possible has a vested interest in the success of the election. Once you have reached this point, the tipping point, where more people want the election to succeed than want it to fail, you have achieved a major part of your

objective in dealing with the lack of confidence in the process. The essential idiom that I have found that works is that it is to be made plain to all in the process that it's a contest, it's like a game of football. We all want to see the game of football being played fully according to the rules. It cannot be played, it cannot succeed, and this whole game will be spoilt (if the rules of the game are not followed). And this, everybody tries to play according to the rules, and recognizes that we are in a game together, and that the referee, the EMB, has a job to do: it needs the active cooperation of the two competing teams and their captains in particular. That kind of lesson should be brought home to the political role players, that although you want to win this game, it's a game, and it's a contest in which you can only win if we all play according to the rules.



Craig Jenness and Judge Kriegler. © FDFA

## What can be done to have buy-in of the stakeholders in an electoral process?

I started off much earlier talking about humility, about the limits of the power of an EMB. By that, I certainly did not want to suggest that an EMB should confine itself to its administrative functions and its purely administrative job. An EMB ideally should be interacting with the electorate permanently. There should be a permanent appreciation of the fact that the cliché is true: an election is not an event, it's a process. It's just a step in the democratic life of the society and we are at all times aware of the fact that it's going to be another election in x number of years. We are all in this together. The EMB should, if it has the possibility, do so through public relations, through interactions with the political parties, through interaction with the media, through its demonstration of its activities and goodwill, the transparency

<sup>69</sup> The interview was conducted and filmed by Hiroko Miyamura on December 13, 2017 in Cape Town. These are excerpts of the film interview.

of what it is doing, should inculcate trust in the society over a period of years before the elections. This is all of us. We are your agents, carrying out your instructions for your contest. We are all in this together and it's not easy. It's not the same in any two societies. But if the EMB is sensitive to the political realities and the social-economic realities of its society, it should be able -- over a period of years -- to establish this kind of attitude. It will not happen easily. I have worked in some societies, where one is all but convinced that it will take decades to create this kind of spirit of unity in diversity. Societies differ. Some societies, and I don't want to mention specific instances, but there are societies that have very strong localized loyalties. I think an EMB should recognize that. And if the electorate is to be addressed, communicated with, through localized contact, do so. Do not try to impose upon a very localized community, society, country, ideas of unity that do not exist. A unity of purpose at election time does not necessarily mean that there's one's unity of thought throughout a very diverse society. The job of deciding to what extent one should adapt one's attempts to gain the support and enthusiastic participation of all elements of the society -- that job is a difficult one. But it's the one an EMB shirks at at its peril, because it will come back to bite you if you have not ensured that all elements -- or all significant elements of the electorate you are supposed to serve -- know what you are doing, and in principle, support what you are doing.

### **Can election Commissioners counter misinformation?**

The answer is yes and no. The first casualty of vote is truth. Certainly, the first casualty of a hotly contested election is the truth. Rumor just flourishes in the electoral environment. The heat and the pressure of an electoral contest, somehow just generate and breed and propagate and proliferate rumors. The only possible way to counteract -- but never to entirely defeat rumors -- is transparency. Let everything be done in the open. Let all of the political parties be part of the process. Let them see what is being done. Let them approve what is being done. Let them take co-responsibility for what is being done. And let the bright light of publicity shine on everything. [...] What I can say is that there is by my lights, beyond reasonable doubt, a causal link between the termination of transparency by the security authorities and the violence that thereafter occurred [in a country where electoral violence took place]. And I do believe that generally, in principle, the only way to ameliorate -- if not to defeat -- harmful election rumors that assail its integrity, is this kind of transparency right from the beginning. And not ostensible, not PR's issues being put out, or smooth spokespersons going on television -- but actual openness at all times. You want to see our books? You want to see how we do the regulations? And you want to see how we select our electoral staff? Come and be my guest. And don't tell as an electoral manager that you are too busy to do the job to bother about this. This *is* your job. Your job is to take the electorate along with you, all along the way. And to say that (you have a job to do, and) the political parties and the media are nuisances, means that you don't understand the elements of your job.

# Speech on Building Trust as an Electoral Management Body: Tools and Advices<sup>70</sup>

Tamar Zhvania · Chairperson, Central Election Commission of Georgia



Tamar Zhvania. © FDFA

Dear colleagues,

We as practitioners in the electoral field recognize and have already learnt that in the process of administering genuine elections there are plenty of aspects that should come into compliance with widely recognized standards; and there are numerous actors with a very different interests and aspirations, who have to agree on the same fare rules and often overcome their own interests for the sake of the greater good. This process is so comprehensive that sometimes it may go beyond the competence of a particular actor and require more complex approach and joint efforts to manage or address one or another challenge.

Speaking about the election environment in Georgia, it resembles the ladder with its ups and downs and with the final destination - of creating the society with the very high demand of democratic values, whereas none of the electoral actor is allowed to place its own interest ahead of the overall benefit of the society. At each election there are new challenges identified, which needs to be addressed, in some cases by one particular electoral stakeholders, but in most cases by the joint efforts of several electoral actors.

The legal competence of the Election Administration of Georgia mainly focuses on the technical administration of the elections, with the strict lines drawn in the legislation; however through developing the general policies and approaches, designing large-scale projects for voters, devoting many efforts to the civic and voter education, establishing better communication with voters and creating better opportunities for their active and informed participation and contribution - we try to create the tendencies

that lead the society toward the more demand of greater democratic processes.

Peaceful and secure election environment has become a priority after a few small-scale conflict breakouts that took places during the previous elections and it came up on the agenda to develop an approach that needed to be institutionalized. We saw that there was more need for security as well as the need for the precisely separated functions between the police and election officials, which required to be more coordinated and organized in case of such need.

In May of 2016, the CEC approved the Election Integrity Management Plan (EIMP) which aimed to define and address the risks related to holding transparent and credible elections, as well as institutionalize the CEC commitment to electoral integrity. Electoral Security was defined as one of the priority areas of the Plan.

Prior to the 2016 Parliamentary Elections, by the initiative of the CEC of Georgia and in cooperation with the Ministry of Internal Affairs of Georgia (MIA) and provided expertise by the International Foundation for Electoral Systems (IFES) a concept of the new initiative was developed that aimed at ensuring secure and peaceful election environment during the October Parliamentary Elections.

Within the pre-election period, several working meetings were conducted between the representatives of the CEC and the MIA. The discussions during these workshops, resulted in drafting the Memorandum of Understanding (MoU), which draw main lines of cooperation between the EA and the MIA for ensuring electoral security. By signing the MoU parties agreed to be guided by the universal principles of human rights and join their efforts to ensure the realization of voters' universal and equal suffrage though holding elections in a secure environment. Within the

<sup>70</sup> Transcript of a speech by Tamar Zhvania during the *Elections to Peace Retreat* on 7 April 2018 in Geneva.

framework of the MoU several seminars were conducted and the CEC Training Center elaborated new training module “Electoral Security”. The training module, which was in line with election legislation and regulations of law enforcement agencies, envisaged guidelines for managing electoral conflicts, defined effective tools of communication between the EA and the law enforcement agencies in case of such need and defined the measures to ensure relevant response to the emerging electoral conflict and prevent it throughout the electoral cycle.

At the later stage of implementing the election security initiative, the trainings were conducted for the relevant staff members of EA and the Law Enforcement Agencies. The CEC Training Center integrated the new module “Electoral Security” within the trainings of the Precinct Election Commission (PEC) members. At the end the election officials and law enforcement agencies received a very clear guidelines and instructions for ensuring security at the polling stations and managing conflict during the voting process. The guidelines included instruction for the PEC members about when and in which circumstances they were responsible to summon (call) the police forces; what tools do the PEC members have in their hands to mitigate and manage the risks of emerged conflict; how to secure the election documentation, inventory and related materials during the polling process.

The Minister of the Internal Affairs of Georgia issued the special order in line with the elaborated guidelines. The order served as an instruction to the Law Enforcement Agencies for ensuring secure election environment and guided them in dealing with electoral conflict. The Ministry of Internal Affairs ensured the conduct of series of trainings for police forces about the elaborated guidelines which covered the issues related with the distance, police should keep from the polling stations as the election legislation prohibits their presence at the election precincts during the E-day. Before the series of trainings conducted for both involved parties -election officials and police, the ToT was also organized and these two entities have exchanged their trainers during the learning process.

This systematic and professional approach to the electoral security as well as strictly defined and separated functions assigned to the representatives of the EA and MIA ensured the smooth performance of their duties on E-day without overlapping their competencies. This process overall resulted in an effective services delivered to voters during the 2016 parliamentary and 2017 municipal elections.

The positive outcomes of the first attempt to ensure institutionalized approach towards the electoral conflict management proved to be a very fruitful and we consider it was a successful example of collaboration between the state agencies to jointly address the particular challenge.

Surely, building the trust towards the election process is not limited with peaceful and secure environment. A very large portion of confidence comes to the transparency of the each and every procedure related to the elections. Reaching a very high level of transparency is quite a complex process and we have designed a lot of projects and initiatives to make our activity easily understandable and accessible for voters and electoral stakeholders. Among the projects we have implemented are some of the innovative ones that ensured the easy access of voters to the election data.

- By engaging new technologies we tried to develop an innovative services for making the frequently debated voters’ lists very transparent. We gave the voters access to their data in the voters list via smartphones and other portable devices, through developing a software application suitable for Android and iOS systems;
- We have promoted civic and voter education projects by covering verity of segments of voters such as youth, first time voters, students of high education institutions, students at public schools, ethnic minority voters and voters of high mountainous regions of Georgia; The EA also provided targeted services for promoting more inclusiveness in election processes. For voters with visual impairments a special lens sheets are available at all election precincts; tactile ballot guide also aids blind voters to make an independent choices during casting their votes; the CEC official web page is the only one in Georgian internet space which is adapted for blind voters using a specially developed audio program; sign language is provided for the social and educational video clips and during the news briefings as well.
- Apart from the voter engagement, the Election Administration also suggests services with innovative technologies to other electoral stakeholders. In particular the CEC launched online registrations for political parties and allowed them to appoint their representatives at all levels of EA using online platform. Since the process of appointments at each election commission is quite complex and complicated, moving this procedure to the online space made the registrations more effective for both – EA and political parties; this program significantly reduced the time and resources of EA and simplified registration procedures for political parties. The process of launching the online registration was inclusive and open, as it included the consultative meetings with political parties as well as introductory trainings; and finally when it was launched during the 2017 Municipal Elections, 23 political parties without hesitation joined the pilot program. Even more the study of their satisfaction with the suggested service revealed that they would welcome more engagement of online services for other electoral procedures. As the pilot of the initiative proved its success, the CEC plans of expanding the online registrations for observers and media for the upcoming Presidential Elections.
- We put much efforts to reduce the time of publishing the preliminary election results by establishing a very own internal software, Election Processes Management Systems (EPMS) for communication with electoral districts; this internal computer program allows us to timely publish PECs summery protocols on E-day; As soon as the election districts receive filled protocols, after completing the counting procedures, their copies are uploaded on the program which directly becomes published and available on the CEC Webpage. All electoral stakeholders may check the protocols and compare them to the copies they may receive at the PECs. This level of transparency of the procedure and quick announcement of the preliminary results significantly increase the confidence in the process and prevents from conflicts and speculations. Going beyond the legal obligation to simply publish the copies of summary protocols on website, the CEC designed a software which makes election results available in easily searchable and perceivable form.

During the past several years the CEC chose the priorities, which transformed the Election Administration into the institution focused on providing effective and innovative services to various segments of electoral stakeholders and voters. As a result of these commitments, Election Administration showed quite a high level of trust revealed during the national public opinion polls conducted by NDI. The poll results showed that the previously often debated issue of the accuracy of the unified list of voters is less problematic for the voters when they are asked about the obstacles to fair election environment. Before 2016 this issue was their second choice reaching the 27% of voters who named it as an obstacle. In the 2016 after introducing number of innovative services for its transparency, in survey results it moved as the citizens' third choice with just 15% referring to this issue. The most recent polls conducted by National Democratic Institute in December 2017 revealed that 93% of citizens agreed the polling process was well organized, 93% believed it was secure and 90 % stated that election officials were well prepared. In addition the CEC became a winner of several international electoral awards for civic engagement, conflict prevention and engagement of first time voters.

Going apart these achievements, we still have several significant recommendations issued in election reports of the OSCE/ODIHR, which needs to be fulfilled in order to address the newly emerging challenges the election environment faces in Georgia. The Election Administration has some challenges in terms of composing the election commissions. At each election commission there shall be 6 members elected by upper level commission and 6 commission members appointed by political parties. The first challenge refers to the issue of sustainability of the commission compositions at all levels, as despite allocated term political party may withdraw their appointed members, especially at DEC level where the political parties may withdraw their members even till the E-day. This is also linked to another challenge the process faces - the issues of qualification, impartiality and their commitment to the ethic norms of election officials. The re-appointments of the commission members also require additional trainings and resources that should be allocated by the EA. At the end, lack of limited recourses, replacements as well as limited professionalism especially at PEC level, to some extent, affect the overall electoral process and raise the issue of trust.

To conclude, I would like to underline the importance of joint efforts and forming fair election environment requires commitments from all involved parties as well as the respect to the widely recognized rules. A single actor may direct its commitments to a particular priority and achieve significant progress in one or another aspect; however the systematic improvement and overall integrity of election processes require uniform approach and the will of all electoral stakeholders to design the effective responses or resolve the problem.

# About the Organizations

**The Swiss Federal Department of Foreign Affairs' Human Security Division** is part of the Directorate of Political Affairs and is responsible for the promotion of peace, democracy and human rights as set out in the Federal Council's foreign policy strategy. It focuses on the security of the individual and protecting people against violence, war and arbitrary treatment. The Peace Policy sections support the transformation of violent conflict (e.g. through mediation & dialogue).

**Graduate Institute of International and Development Studies** is an institution of research and higher education dedicated to the study of world affairs. It has strong ties to International Geneva, with its diplomatic missions as well as international and non-governmental organizations, and an international network of accomplished specialists. It includes the Albert Hirschman Centre on Democracy and the Centre on Conflict, Development and Peacebuilding.

**swisspeace** is a practice-oriented, innovative peace research institute, working closely with the Swiss Federal Department of Foreign Affairs, international organizations and NGOs. It analyzes violent conflicts and develops strategies for their peaceful transformation. It is an associated institute of the University of Basel. It offers a variety of continuing education courses for peacebuilding practitioners.

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# Annex 1

## Strengthening the Role of the United Nations in Enhancing the Effectiveness of the Principle of Periodic and Genuine Elections and the Promotion of Democratization

### Selected Extracts from the Report of the Secretary-General

In the experience of the United Nations, the factors set out below can help to create a context that is conducive to credible elections, even if there is no single formula for all situations. [...]

#### Mitigating zero-sum politics well before an election

30. For elections to enjoy broad trust, they should not lead to a situation in which the winner gains all or most of the benefits. A stronger basis for acceptance is a political system which adheres to the rule of law and human rights and in which even defeated candidates have an incentive to participate and to continue to participate. That may involve longer-term reforms of the political and economic system to reduce extremely high-stakes and exclusionary politics; strengthening the system of checks and balances in government; introducing mechanisms for the protection and promotion of human rights for all; guaranteeing a genuine role for the opposition, including dialogue processes outside the parliament; looking at ways in which national resources are distributed; and tackling corruption and other systemic grievances.

#### Pursuing dialogue and consensus in setting the “rules of the game”

31. The legal framework for an election, including the electoral system and the mechanism to resolve electoral disputes, should ideally be developed through an inclusive, transparent and participatory process. The rules adopted should reflect a broad political consensus, in order to strengthen the credibility of the outcome those rules will produce.

#### Embarking on electoral reform: developing solutions that address the problem at hand and fit the context

32. Successful and sustainable reform processes, including the introduction of technological innovations, start with identifying the electoral problems that are to be addressed rather than, for example, first discussing solutions that may have worked elsewhere. Once there is broad agreement about the shortcomings or difficulties to be overcome, the dialogue can proceed to consider the feasibility of options, preferably again through a broadly consultative process. Such options should take into account the political, legal, social and cultural circumstances of a country, as well as its financial sustainability.

#### Focusing on inclusion and non-discrimination and mitigating the politics of exclusion

33. Inclusiveness, and the idea that individuals and groups should be given a voice in decisions affecting them, is essential to arriving at an outcome that reflects the will of the people and enjoys broad legitimacy. Conversely, political grievances that rear their heads around election time often revolve around exclusion and marginalization. Some groups that face structural unequal-

ities and are typically underrepresented or marginalized in the electoral process will need special consideration to enable their effective participation. Those groups can include women, youth, minorities, persons with disabilities, people in rural areas and areas that are difficult to access, migrants and refugees, and other populations that are vulnerable because of poverty or illiteracy, or other reasons.

#### Placing a premium on responsible political leadership

34. The overriding responsibility for a successful election lies with political leaders from both government and opposition parties. Leaders should publicly commit themselves and their supporters to engage in proper, peaceful behaviour; to challenge results through legal and peaceful means only; to accept final outcomes, as officially declared; and to be gracious in defeat and magnanimous in victory, including by ensuring important political space for the opposition.

#### Encouraging the broad participation of all political actors rather than disengagement

35. Something valuable is lost when political actors decide to withdraw from an electoral process. Among other things, it means fewer options for citizens to participate and to have their voice heard, narrowing them down to protest and abstention. [...]

#### Strengthening both the performance of the electoral authorities and how they are perceived by the electoral stakeholders

36. Election management bodies should not only be able to do their work effectively and to do it free of political influence; they should be perceived as doing so. The independence of an electoral management body and its impact on the credibility of an election has a strong subjective aspect. The independence of such a body is based not only on the regulations that protect it, but also lies in the eyes of the beholder: the voters and the parties. Electoral management bodies should strive to be open, transparent and maximally consultative and informative with and to key contestants, civil society and the general public.

#### Taking politically and financially sustainable decisions about technology

37. While new technologies can be a tool at the service of electoral processes, the relationship of technology to the success of an election is not always straightforward. United Nations experience suggests that technology by itself does not necessarily create trust or prevent fraud. New technology may be best introduced as a solution to problems that might hinder the credibility of a process or the acceptance of results, not as an end in itself. [...]

## **Women's political participation**

38. Member States are called upon to undertake more systematic efforts to promote and enable women's political participation, which is critical to stable and democratic societies. Regional and sub-regional intergovernmental organizations are also encouraged to continue to play a supporting role in this regard. As noted in previous reports, the effective political participation of women does not end with increasing their numbers on an elected or appointed body, it requires the full empowerment of women as active participants and leaders in voting and decision-making throughout public service.

39. While more women than ever before participate as voters, candidates, polling agents, election officials and observers, the violence perpetrated against women in elections is of deep concern. It deprives women of exercising their right to participation and to live a life free from violence; hampers opportunities for their full and equal representation in decision-making; and thereby weakens democratic processes and institutions. Member States, with United Nations support if needed, can and should do more to understand these forms of violence and develop tools to prevent them.

# Annex 2

## HSD overview of type of support activities to implement the Elections to Peace approach

	Measures	Actors	Outcome	HSD's role
Prevention ----- ↓	Political and moral commitments	Political parties - Security forces - Electoral authorities	<b>Agreement</b> - <b>Code of conduct process</b> - <b>Dialogue platform</b>	Facilitation & Electoral/ political expertise
	Legislative reforms	Parliamentarians - Lawyers/experts - Watchdogs, CSOs	<b>Dialogue platform / Parliamentary committee</b> - <b>Workshop &amp; Peer-to-Peer exchange</b>	Facilitation & Legal expertise
	Operational and security planning	Political parties and candidates - Security forces	<b>Consultative technical/ security committees</b>	Facilitation, electoral or security expertise
Resolution	Monitoring / Observation	Political parties - Respected leaders - CSOs, observers, watchdogs and experts	<b>Peace committee: Advocacy and local mediation</b> - <b>Alternative dispute resolution</b>	Facilitation - International observation - High-level support/mediation
	Electoral dispute resolution (challenges / "contentieux")	Judges - Political parties	<b>Workshop</b> - <b>Peer-to-Peer</b>	Judicial expertise - Facilitation



