

Center for International Peace Operations (ZIF)
Kofi Annan International Peacekeeping Training Centre (KAIPTC)

Elections in Post-Conflict Countries – Lessons Learned from Liberia, Sierra Leone, DR Congo, and Kosovo –

Report of a ZIF/KAIPTC Seminar,
June 12–14, 2008, Accra/Ghana

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Introduction

On 12–14 June 2008, the *Kofi Annan International Peacekeeping Training Centre* (KAIPTC) and the *Center for International Peace Operations* (ZIF) convened a high level Lessons Learned Seminar in Accra, Ghana, on the Lessons Learned post-conflict elections.¹

The aim of the Seminar was to (1) explore the particular problems and issues which have to be tackled in elections in post-conflict countries and (2) to assess their role in stabilizing post-conflict countries.

The Seminar therefore addressed a range of issues related to planning, conducting, and monitoring such elections, like the role of peace agreements and their content, electoral law and the timing of elections; different types of National Election Commissions, including the problem of funding and the importance of international assistance; the increasing use of modern technology; types and lessons learned with regard to electoral complaints and justice systems; the impor-

1 The Seminars are a strategic component of KAIPTC-ZIF cooperation since 2004 in close coordination with ECOWAS, and cover predominantly problems, perspectives, and lessons learned of peace processes in West Africa. The project is funded by the German Federal Government and conducted by KAIPTC and ZIF in cooperation with the *Gesellschaft für Technische Zusammenarbeit* (GTZ).

The following Reports on previous seminars have been published:

- “Challenges of Peace Implementation in Côte d’Ivoire”. Report on an Expert Workshop by KAIPTC and ZIF, May 31 – June 2, 2004 (http://www.zif-berlin.org/Downloads/Cote_d_Ivoire_08_04.pdf)
- “The Role of ECOWAS in Election Observation”. Expert Workshop with the ECOWAS Council of Elders, Accra, June 14–16, 2004 (http://www.zif-berlin.org/Downloads/zif_ECOWAS_web.pdf)
- “Post-Conflict Peacebuilding and National ‘Ownership’ – Meeting the Challenges of Sierra Leone”. Report, Second Annual KAIPTC/ZIF Seminar, Accra, December 1–3, 2005 (http://www.zif-berlin.org/Downloads/Report_Sierra_Leone_02_06.pdf)
- “Post-Conflict Peacebuilding in Liberia – Much Remains to be Done”. Report, Third Annual KAIPTC/ZIF Seminar, Accra, November 1-3, 2007 (http://www.zif-berlin.org/fileadmin/uploads/analyse/dokumente/veroeffentlichungen/Liberia_Report_final_3_6_08.pdf)

tance of mediation and confidence building measures as well as how to assure local ownership. Elections conducted in Sierra Leone, Liberia, DR Congo, Kosovo, and other conflict countries served as case studies. The Seminar concluded with an outlook on the upcoming elections in Côte d'Ivoire and Sudan.

To discuss these topics in depth, KAIPTC and ZIF had invited about thirty high level experts disposing of a wide range of field expertise regarding elections in post-conflict countries, be it in African countries like Sierra Leone, Liberia, the DR Congo, or in countries like the Kosovo, Afghanistan, East Timor, Haiti, etc. The level and diversity of expertise represented at the Seminar was exceptional. Participants have to be congratulated for the high calibre of their.

This Report captures the essence of the presentations and discussions of the Seminar, as well as a number of important lessons learned and recommendations drawn there from. The Executive Summary provides a concise and very informative overview of the Report.

Dr. Winrich Kuehne
Director ZIF

Dr. Kwesi Aning
Head CPMRD, KAIPTC

Executive Summary

I. The Role of Elections in Stabilizing Post-Conflict Countries

A post-conflict society is by definition deeply divided. An election, as a contest for positions of leadership and power, has a great potential to worsen existing rifts and plunge a country back into open conflict. This was a view held unanimously by Seminar participants. If handled properly, however, free and fair elections can play a significant role in stabilizing societies emerging from conflict. In order to be able to achieve this, a number of elements within the electoral process must be adapted to the specific context of the individual country. To this end, a full understanding of the history and the causes of the conflict is essential. Existing ethnic, religious, and social tensions must be taken into consideration, as well as the distribution of the conflict parties within the country and possible regional linkages. While getting all the elements right does not guarantee success, getting even a single one wrong can seriously damage the credibility of the electoral process and jeopardize stabilization efforts. Among the most important which were discussed during the Seminar are:

The choice of the electoral system: depending on the specific local requirements, the electoral system can be used to promote a range of peacebuilding priorities such as guaranteeing seats to minority groups, strengthening local autonomy, or providing for a smooth, easy-to-administer electoral process. However, each system also has drawbacks that must be taken into consideration.

The timing and sequencing of elections: in spite of the insistence of many local and international actors for an early voting date, elections cannot be held before a sufficiently secure environment has been established and a minimum institutional capacity for conflict resolution and election management has been established. In addition, a decision must be made whether to hold all elections (presidential, parliamentary, local) simultaneously or, if not, in which order.

The parameters of the Election Management Body (EMB): while various legal set-ups are possible, EMBs need both a transparent framework and sufficient resources. It should enjoy a considerable degree of independence. All actors must also understand that managing elections in a post-conflict situation goes beyond merely administering their technical aspects but rather must dovetail into the larger political reconciliation process.

The role of the media: on the one hand, a free press has a crucial control function in democratic societies. On the other hand, party-driven media playing on the fears and prejudices of the population can do untold damage in a nation that has only recently emerged from violent conflict. The establishment of codes of conduct is recommended to contain this danger.

Security and the Rule of Law: security agencies and the justice system must be willing and able to maintain the peace, offer equal protection to all parties and candidates, and adopt a posture of zero tolerance to election-related violence, regardless of the source.

The role of the international community: international actors can become active in a number of ways in post-conflict elections such as guaranteeing security, providing administrative and technical expertise, helping to build local capacities, exerting political pressure on possible spoilers, assisting in mediating conflicts, mobilizing funds, or even administering the elections directly. It is crucial that all actors agree beforehand on the role most appropriate for each of them and respect this division of labour throughout the electoral process.

Expectation management: the prospect of elections after the end of violent conflict is often accompanied by the popular expectation of rapidly improving living conditions; in order to avoid that the inevitable disillusionment leads to a wholesale rejection of the newly established political system, both local and international actors must provide the population with a realistic appraisal of the difficult transition period ahead; indeed this is a “must” which is more often than not neglected as several participants with ample field experience pointed out.

II. Electoral Commissions, Funding, and International Assistance

Much more important than details of their organizational specifications is the ability of electoral commissions or other EMBs to gain the trust of the population. To achieve this, EMBs must pass three tests:

- they must be *independent*, i. e. free from oversight or undue influence by other government agencies.
- their actions during their entire lifespan – from the nomination of members, through voter registration and the election campaign, until the complaints and appeals phase – must be *transparent*. Their legal framework, therefore, must allow a high degree of participation or outside scrutiny by political parties, civil society organizations, the media, and international actors.
- EMBs must discharge their duties in a competent manner and to high professional standards. This is only possible if they have sufficient *personnel, technical, and financial resources* at their disposal.

The international community has a role in assisting national EMBs to pass all three tests. In the first and second instance its role will largely consist of offering advice on how to construct the legal framework conditions under which a specific EMB will operate and then monitoring compliance. In the third, assistance provided by an international peace operation and other international donors will feature more prominently and be considerably more contentious. Here, international actors are faced with a dilemma: On the one hand, shortage of local funds and electoral expertise in post-conflict settings call for a high degree of international involvement, sometimes up to a complete take-over of the management of the elections. On the other hand, long-term sustainability requires broad local ownership of the electoral process, and the transfer of skills and capabilities to local electoral staff.

Several specific drawbacks of a disproportionate reliance on international assistance for national EMBs were discussed at the Seminar:

- commitments to support may be withdrawn due to changing political conditions in donor countries;
- donor support on occasion comes with strings attached such as the requirement to purchase equipment from specific donor countries or hire their nationals as highly paid advisers;

- donated funds and equipment are sometimes micro-managed by international actors unfamiliar with local needs;
- cumbersome bureaucratic processes for accessing donor funds can cause delays for electoral timetables.

III. The Role of Modern Technology in Elections

Three different aspects of post-conflict elections are affected by the introduction of modern technology: *firstly*, the preparation and administration of elections, *secondly*, the actual casting and counting of votes, and *thirdly*, election observation. Seminar participants judged the effect of modern technology on these three fields quite differently. There was broad agreement that the impact of technology on both election administration and observation was largely positive. Most participants, however, were deeply sceptical about the introduction of electronic voting in post-conflict societies. The proper functioning of the equipment is very difficult to verify, both by the electoral management body and the individual voter. This use of technology thus can create a serious lack of confidence in electoral outcomes that even politically stable nations find difficult to handle.

Yet, there is no doubt that modern technology is an indispensable tool for electoral management bodies. Apart from day-to-day office work, it is used in:

- voting district delimitation;
- voter registration;
- compiling of voters' lists;
- creation of voters' identification;
- voter education programs;
- addressing complaints and appeals;
- tallying and publishing results on election day.

In spite of these advantages, there are also drawbacks. Modern technology can be transferred to post-conflict societies only through international funding and expertise. In order to create sustainable election management structures rather than permanent dependencies, capacity building measures for national staff must be implemented. In addition, a permanent source of funding for EMBs must be found within the national budget.

One often overlooked aspect is the use of technology in election observation, particularly by local civil society which is often ahead of EMBs in familiarity with modern IT equipment. One positive example is the use of cell phones and text messaging by local observers on election day to keep the organization's headquarters informed about possible irregularities. Some NGOs have even been able to prepare rapid parallel vote tabulations that highlighted inconsistencies in the results later published by the national election commissions.

Overall, the Seminar came to the conclusion that while modern technology can be used to address specific challenges in an electoral process, it is no quick-fix panacea for the ills afflicting post-conflict societies. In particular, it is no substitute for the commitment of former conflict parties to respect the electoral process and for strong leadership and sound management by the national electoral management body.

IV. Electoral Complaints and the Justice System

In the course of the Seminar numerous, in some cases quite specific, questions on the electoral complaints and appeals process were discussed, such as:

- how long deadlines for lodging complaints and appeals should be;
- how to address the unpredictability of the number of complaints and how to guarantee scalability of structures;
- under what circumstances complaints should have a suspensive effect;
- whether reports by locals and international observers should be admitted as evidence in electoral appeal cases;
- to what degree the public should have access to information about pending cases;
- what possible role traditional justice mechanisms could play in settling electoral complaints.

The answers to these and a large number of other technical questions can only be found if three essential requirements for complaints and appeals processes are taken into consideration: *speed*, *accessibility*, and *transparency*. One participant stated that as long as these conditions were met, it did not matter whether the body hearing the cases was permanent or temporary, formal or traditional, or whether it was an existing law court, a subcommittee of the

national election commission, or an independent organization. Given enough resources and an appropriate procedural framework, different types of agencies could fulfil these requirements.

Speed is of the essence in the work of a complaints and appeals commission as final election results cannot be certified until at least those appeals that could seriously affect the outcome of the election have been dealt with. The longer such a period of uncertainty lasts, the greater the danger that rumour and disinformation will lead to unrest or even violence. To allow for an efficient but not rushed processing of cases that safeguards the integrity of the election result, a number of suggestions were made:

- institute short deadlines for lodging appeals;
- do not hold open sessions of complaints and appeals commissions; rather conduct all business in writing;
- limit the number of witnesses and evidence to the minimum necessary; and
- either set up a permanent specialized body, or keep track of and re-employ experienced personnel in order to create institutional memory.

Clearly, the best thought-out complaints and appeals process is worthless if the electorate is not aware that it exists or how it works or is unable to file complaints for practical reasons, such as the requirement to file complaints in person at the EMB's office in the capital. Among the measures discussed to guarantee *accessibility* were:

- the inclusion of the appeals process in all voter education efforts;
- the dissemination of information on electoral appeals in all local languages and in as many different media as possible, as well as in the polling station on election day;
- the act of lodging an appeal must be as simple as possible, for example by using a pre-printed form that is widely available (wide availability and ease of use also allow for short deadlines); and
- the admissibility of anonymous complaints and appeals.

Just as *transparency* before the elections leads to fewer complaints afterwards, transparency in dealing with those leads to a higher level of acceptance of the final election results. Elections in post-conflict countries are plagued by irreg-

ularities which are not malicious attempts at fraud but rather minor mistakes or delays caused by rotten infrastructure and insufficient training. Yet, if the resulting complaints are handled in secrecy, public trust can be seriously undermined. The necessary transparency can be established through, among others:

- developing a public information/media policy for the complaints and appeals commission;
- allowing access to the appeals process by election observers and NGOs; and
- publishing results as soon as possible, including on the internet.

V. Confidence Building Measures and Dispute Resolution

In the field of confidence building and dispute resolution, international actors – whether a UN peace operation, a regional organization, or individual interested states – can make a decisive contribution to the success of post-conflict elections. One participant stated: “In my opinion, out of all possible functions for international actors, a robust ongoing mediation role is among the most important to help maintain the trust of the parties in the electoral process.” In order to fulfil this role, two conditions must be met. *Firstly*, the function of the international actors must be clearly defined, either in the underlying peace agreement or in some other formal understanding between all relevant stakeholders. *Secondly*, the international actors must speak with one voice, otherwise they can easily be played off against each other.

However, it is increasingly difficult to create such a consensus. As a result, there has been a noticeable loss of credibility by the international community in some post-conflict countries and a weakening of its effectiveness as a mediator in election-related disputes. Participants remarked that while competing agendas were always present, an increasing politicization of peacekeeping and the entry of new actors with agendas of their own have complicated matters further. The situation in Sudan was named as a prime example of this worrying trend.

Even more important than providing for a dispute resolution mechanism, however, is the minimization of the mutual distrust that causes the disputes. Key

is a participatory approach to the electoral process aiming at the inclusion of stakeholders such as religious organizations, NGOs specialized in voter education and human rights, trade unions, women's and youth organizations, and academic and cultural associations. As participants stressed, this does not mean that every single civil society organization must be a member of every single decision-making body. But it is vital to create a space where the relevant parties can interact in a way that makes them feel a part of the process.

The example of Ghana was cited where several mechanisms for conflict prevention have successfully been established to address the crucial relationship between the electoral commission, political parties, and the electorate. These include:

- *formalized dialogue*: a mechanism of standardized dialogue has been built between the political parties and the electoral body that gives both side the opportunity to raise and solve diverse issues in a common political sphere;
- *voter education*: as citizens' distrust and suspicion mainly emanate from a lack of knowledge about the electoral commission, voters have been educated about the function, rules and regulations, procedures, and structures of the electoral body;
- *unity of the electoral commission*: members of the electoral commission are instructed to develop a political consensus so that they can speak with one voice on important issues and avoid contradictory statements;
- *participation of political parties*: political parties are given direct possibilities of participation at all the important stages of the electoral process, from voter registration, to polling and to vote counting.

VI. Peace Agreements, Electoral Law, and Timing of Elections

Peace agreements are a fundamentally important basis of the electoral process. Individual peace agreements may vary in the specificity of their provisions concerning post-conflict elections, but their content can potentially predetermine the success or failure of future polls. Unfortunately, peace agreements sometimes contain unrealistic electoral provisions. In three areas negotiators could in particular profit from expert electoral advice:

- on the *feasibility of electoral dates*; there are numerous examples of serious problems caused by unrealistic timetables – which means in practice timetables that are too tight; in addition, dates in an electoral process should not be absolute, but rather should be set relative to each other;
- on the *parameters of the EMB*; the questions of what is practicable and what is politically acceptable need to be asked early in the process, as re-organizing an EMB does not add to the confidence of the electorate in this body;
- on the workability of the numerous possible *electoral systems*.

Typically there are presidential, parliamentary, and local elections to be organized and implemented in the effort to stabilize a post-conflict country. The first decision that needs to be taken – whether to hold all elections simultaneously or separately – immediately leads to a dilemma. On the one hand, experience shows that holding several elections at once can be confusing to voters. On the other hand, holding separate elections can lead to voter fatigue and is also more costly. A thorough examination of local conditions is necessary in order to determine how to strike the right balance.

If local conditions argue for holding separate elections, the question then arises in which order they should be organized. Again, a dilemma arises. National elections, particularly presidential ones, have a much higher profile than local polls. They are thus more likely to be subject to outside observation and are more likely to generate controversy if they are perceived to be flawed. These considerations would call for holding presidential elections later in order to be well prepared. However, national elections are normally considerably easier to organize than local elections. Local elections require the registration of a greater number of candidates in a greater number of and more remote locations, more different styles of ballot papers to be designed, printed and distributed, and more campaigns to be monitored. It therefore often makes good sense to use the “easy” round of national elections to practice for the “difficult” local polls, which are in fact no less important for the everyday lives of the population.

The correct balance between flexibility and certainty within the electoral framework is also very important, yet very difficult to achieve. Seminar partici-

pants felt that only the most basic and the most controversial issues should be directly spelled out in the electoral law in order to get the explicit buy-in of all parties well in advance of the elections. On other issues, however, EMBs should be given enough flexibility to adjust to a changing situation on the ground. It is vital, however, that regulations exist before controversial issues – such as tie votes – arise. Making up rules “on the go” damages the credibility of the entire process.

Whatever the individual balance of certainty and flexibility may be, it is very important that the basic electoral framework should be changed as little as possible for a considerable amount of time – ideally a year – before the election date. This period is necessary to give the political parties a chance to develop and adjust their strategies to the legal framework requirements, to allow EMBs to design processes and materials, and to train local election officials on all levels. It is now widely recognized that the training of this group is one of the key determinants of success or failure of elections.

VII. Local Ownership and Elections

The pivotal role of local election officials was also highlighted in the panel on local ownership. The training of experienced, motivated, and competent local staff depends on certain conditions:

- the realization that *capacity building is a long-term process*; it must be planned, funded, and started early enough ahead of the election date and continue for a considerable period thereafter, ideally a full election cycle; six weeks of training every four years is not enough;
- the international staff's *ability and willingness to mentor local personnel*;
- *co-location* of locals and internationals to facilitate the necessary skill transfer.

Possibly the most important element, however, is continuity of personnel. It is also the most difficult to achieve in a typical post-conflict country, where local state institutions are unable to compete with the salaries offered by international organizations or the private sector. One participant reported, for example, that not one of the local staff trained at the OSCE electoral division in Kosovo was later willing to transfer to the national election commission.

Instead, all chose to work for various international organizations in other post-conflict countries. While there is no simple solution to this problem, international missions could avoid hiring local staff on a permanent basis but rather concentrate their support from an early point on the national EMB.

Apart from technical aspects, participants also discussed several fundamental dilemmas facing the international community in regard to local ownership. One was already mentioned: how to reconcile the tension between creating local ownership and delivering a successful election. One participant asked with regard to the 2007 election in Kosovo: "The question was: to what degree will the international community accept any reduction in standards?" Another recounted how in the DRC in 2006 "at some point the pressure of time constraints was so strong that some international experts felt the need to take over the practical leadership in several fields, at the expense of capacity building considerations."

There also remains a significant discrepancy between the legal assumption and the de facto implementation of national ownership. Both in the DRC and in Liberia, for instance, the election units of the UN missions commanded considerably greater resources of funding and personnel than the respective national EMBs and therefore exerted a much greater influence than their non-executive mandates had originally foreseen. In addition, the hesitation of the international actors to hand over responsibilities to national EMBs is mirrored by an unwillingness of these bodies to receive such responsibilities.

VIII. Upcoming Post-Conflict Elections – Key Issues and Problems in Côte d'Ivoire and Sudan

In March 2007 the conflict parties of Côte d'Ivoire signed an agreement in Ouagadougou which called for a three-step peace and reconciliation process. In the first step the key issue in the conflict between the government and the *Forces Nouvelles*, the question of who is an Ivorian citizen, was to be addressed by public hearings (so-called *audiences foraines*) to establish the citizenship of persons without official documents. This is to be followed by the creation of

a credible voters' list and, finally, presidential, parliamentary, and local elections set for November 30, 2008.¹

Three main obstacles on the way to successful elections in Côte d'Ivoire were identified:

- the *security situation* is still fragile; the peace agreement called for a combined national security architecture, headed jointly by one representative of the armed forces of Côte d'Ivoire and one of the Forces Nouvelles; however, the representatives continue to receive conflicting instructions from their political masters which endangers the stability of the peace process;
- the *Commission Electorale Indépendante* (CEI) is widely thought to favour the government and seems to be dismissive towards civil society organizations;
- the *audiences foraines* and the *voter registration process* are extremely time-consuming and there exist widely conflicting views about the number of persons still to be audited: according to government sources the 586.000 so far identified present the whole number, other observers speak of over three million persons remain to be dealt with.

Sudan faces a veritable electoral marathon between 2009 and 2011. No less than six elections and three referenda must be held, according to the *Comprehensive Peace Agreement* (CPA) of January 2005 and the *Darfur Peace Agreement* (DPA) of May 2006: referenda on the independence of Southern Sudan, on the status of the Abyei region (both to be held before January 9, 2011), and on the status of Darfur (to be held before July 9, 2009), and general elections (also to be held before July 9, 2009), consisting of elections for the office of the President of Sudan, for the office of the President of the Government of Southern Sudan, for the National Assembly, for the Southern Sudan Legislative Assembly, for State Governorships, and for State Legislatures.

With regard to the implementation of the CPA, several important milestones have been reached. An *Interim National Constitution* and an *Interim Constitution of Southern Sudan* were adopted in 2005, the *Political Parties Act* was passed in early 2007, and a pilot census was held in April 2007. For a number

¹ Elections have since been postponed until the completion of the identification process and the disarmament of ex-combatants.

of reasons the implementation of many other elements has lagged behind their target dates:

- the *Political Parties Council* to oversee the official registration of political parties still has not been set up;²
- the *National Elections Act* has been delayed due to disagreements about details of the electoral system and the implementation of the quota for women;³
- in what is one of the gravest shortcomings of the CPA, the creation of the *National Elections Commission* is conditioned on the prior establishment of the National Elections Law; crucial time for the preparation of the elections is thus lost;⁴
- the date for the *national census* – on the results of which the seat allocation in the various assemblies depends – is unclear;⁵
- *voter registration* has not yet begun;
- the *North-South boundary delimitation* and the *Abyei boundary delimitation* are unfinished;⁶
- key preparations for the referenda, such as the passage of a *Referendum Law* and the creation of both an *Abyei Referendum Commission* and a *Southern Sudan Referendum Commission*, have also not been put in hand.

2 The members of the Political Parties Council were endorsed by the national parliament in November 2008.

3 The National Elections Act was passed by the Sudanese parliament and signed by the president in July 2008.

4 The National Elections Commission was sworn in on November 25, 2008.

5 The Population Census took place April/May 2008. Results are expected in February 2009.

6 The Abyei boundary delimitation was referred to the Permanent Court of Arbitration in The Hague in June 2008.

I. The Role of Elections in Stabilizing Post-Conflict Countries

Kwado Afari-Gyan

Chairman, National Election Commission, Ghana

A post-conflict country is obviously a divided society. So, if we define an election as a contest for positions of leadership and power, it can easily appear paradoxical to say that an election could be used to stabilize a country coming out of open conflict. And yet elections can play a significant role towards stabilizing post-conflict countries.

The Importance of Background Conditions

The factors that led to the conflict differ in nature and intensity from one country to another. So, for a post-conflict election to have the potential of playing a stabilizing role, it must be situated in the specific context of the country concerned. In this regard, it is of singular importance how divided the society is. This can be gauged by finding answers to the following questions, among others:

- Is the country divided along racial, ethnic, or religious lines?
- Do the groups amount to distinct cultural communities?
- How intense is the conflict between competing groups and how strong are their claims?
- What is the spatial distribution of the conflicting groups?
- Can political parties transcend the lines of division in the society?

The Electoral System

The extent and nature of divisions in the country and other background factors of the conflict should be taken into consideration

where there is an opportunity to choose an electoral system. Usually, an electoral system is chosen to solve an existing problem. South Africa, for example, chose the *proportional representation* (PR) system for the post-apartheid elections of 1994 as an integral part of the power-sharing mechanism of the new constitution to guarantee seats to all minority groups. Lesotho chose the *mixed-member proportional* (MMP) system to overcome conflicts caused by the opposition's inability to gain seats in the legislature under the previous *first-past-the-post* (FPTP) system, in spite of its sizeable share of the popular vote. Sierra Leone chose a district-based PR system for the 2002 parliamentary elections as a provisional measure. It was clear from past experience that voters did not like the PR system, mainly because it did not allow them to know their representatives in a direct way. On the other hand, the civil war had resulted in such massive internal displacement that it was not feasible to divide the country into single-member constituencies in a fair manner.

Apart from wanting to solve a specific problem, three other considerations are worth mentioning in relation to the choice of an electoral system:

- If an electoral system is able to achieve inclusive representation relative to the degree of fragmentation of the country, it fosters consensus-building on national issues and thereby political stability.
- An electoral system can help to re-focus political interests and redirect forms of political participation in ways that are necessary to achieve accommodation and development.
- To promote democratic accountability, a viable electoral system should promote participatory local government.

The Timing of the Elections

Three factors must be considered to ensure the proper timing of post-conflict elections:

- The authorities must be able to guarantee an environment in which the elections can be reasonably competitive, free, and fair.
- The competing groups that were active in the conflict must show a disposition towards peace and accommodation.
- There must be a reasonable institutional capacity for conflict resolution.

In the absence of these conditions, hastily held post-conflict elections can be a dangerous gamble that has the potential to destabilize the country once more by rousing the factors that had led to the conflict in the first place.

The Election Management Body (EMB)

There are certain things that we expect of any EMB for the conduct of a credible election. In sum, the EMB must set out a transparent framework for the election and prepare its officials accordingly in order to avoid committing petty mistakes that lead to unnecessary mistrust. It must also be seen to be independent, neutral, and fair in the conduct of its office, so as not to give cause for discontent to any candidate or party.

In addition, it is important to realize that in an unsettled post-conflict situation, managing elections goes beyond simply administering the electoral process and must dovetail into managing the political process. The EMB must see the elections as part of the conflict resolution mechanism and thereby be ready to be accommodating towards the political parties with a view to bringing them fully on board the elec-

toral process. This may require a relaxation – within reasonable bounds – of electoral rules and regulations instead of rigid adherence to time lines for candidate nomination, for example.

Civic/Voter Education

The EMB may or may not be in charge of civic/voter education. But the nature of this education campaign is of critical importance for post-conflict elections. Beyond empowering the electorate to participate effectively in the electoral process, civic/voter education must seek to inculcate not only the respect for human rights, but also a predisposition to reconciliation and co-existence. In this regard, the media and civil society organizations can contribute immensely to creating an atmosphere conducive to free and fair elections, as well as educating the electorate by calling attention to election-related violence, acts of intolerance, and the abuse of fundamental rights.

Other Principal Actors

Obviously, the onus for credible elections in a post-conflict country does not lie with the EMB alone. The other principal actors in the electoral process, particularly the political parties and individual candidates, the media, and the security services should be mindful that they are operating in an inherently volatile environment in which conflict is likely to be lurking just around the corner. For this reason, political parties must take special care to use civil rather than abusive language in their campaigns and to refrain from inciting violence against opponents. The media must make a conscious effort to refrain from incendiary publications and the dissemination of bogus opinion polls on the likely outcome of the elections – in addition to the obvious requirements of giving equal access to all parties and reporting their activities accurately. Finally, security agencies must be ready and willing to maintain the peace, offer equal protection to all parties

and candidates, and adopt a posture of zero tolerance to election-related violence, regardless of the source.

Conclusion

Holding successful elections in a post-conflict situation does not signal the arrival peace and stability: it only creates an opening for achieving peace and stability. Whether they will actually be achieved thereafter depends on the quality of governance. It is important for the authorities to be seen to be providing the basic socio-economic needs like food, housing, employment, education, health care, etc. The predisposition to violent crime and other criminal activities, particularly among the youth, might be traceable to the crisis of governance. Pervasive crime breeds insecurity, and insecurity undermines stability.

Aldo Ajello

former EU Special Representative for the Great Lakes Region

In my remarks on the role of elections in stabilizing post-conflict countries I will focus on the elections in the *Democratic Republic of the Congo* (DRC) in 2006. However, my conclusions will also be based on other post-conflict elections I am familiar with, in particular those in Mozambique in 1994, where I served as the *Special Representative of the Secretary-General* (SRSG) leading the *UN Operation in Mozambique* (ONUMOZ).

The Electoral Process 1991–2006

The electoral process in the DRC was a very long and difficult one, starting with the *Conférence Nationale Souveraine* under the rule of Mobutu Sese Seko in 1991, continuing under Laurent Desiré Kabila and finally bearing fruit under his son Joseph Kabila in 2006. This fifteen year process is also an excellent illustration of the importance of the political will of the key local actors. Neither Mobutu nor the older Kabila had any intention of ever holding democratic elections, in spite of strong international pressure. After being forced by the international community to accept a multi-party system, for example, Mobutu actively encouraged the setting up of literally hundreds of tiny, quarrelling political parties in order to make the *Conférence Nationale Souveraine* unmanageable and thus sabotage the promised elections.

Laurent Kabila, for his part, although he signed various cease-fire agreements, never seriously looked for an alternative to a military victory over his opponents and obstructed all political initiatives. Only the acknowledgement by his son and successor that the poor quality of the DRC's armed forces would rule out a military victory over his opponents opened the door to a political solution and ultimately led

to the elections in 2006. This complete change of course by Joseph Kabila from the military to the political option is an even more remarkable achievement since he successfully portrayed himself at the same time to his domestic supporters as acting in strict continuity with all policies of his father.

Dealing with Spoilers

Yet while President Joseph Kabila developed a genuine movement towards a negotiated end to the conflict in the DRC, there remained powerful groups and individuals within all parties who were rigidly opposed to elections. Their main motive was the realization that they had no chance to defend their positions of wealth and power in a democratic contest. Dealing with these “spoilers” or “negative forces”, as they were called in the DRC, became one of my most important tasks as *EU Special Representative* (EUSR) in the DRC. It quickly became apparent that these groups – in spite of their power – had one fundamental weakness. They could not make the peace process fail and assume the responsibility for that failure. They needed a scapegoat. The international community as well as the population of the DRC overwhelmingly supported the peace process and the holding of elections. It was thus political suicide for any Congolese politician to appear to oppose them. Under these conditions, the EU and other international actors very successfully employed a “name-and-shame-strategy” against potential spoilers. Whenever an individual or group obstructed the electoral process, their actions were publicised via the international and the Congolese media and the responsibilities were clearly identified. The resulting outcry of public opinion then forced the spoilers to rethink their position.

EU Support of the 2006 Elections

Apart from putting strong and continuous political pressure on all political actors in order to keep the electoral process on track, the EU was also ready to offer concrete financial, technical, and military assistance. It provided roughly 80 percent of the budget for the elections, a sum of about US\$ 400 million. EU legal experts offered advice on the rewriting of the DRC constitution and electoral law. The EU also supported *Security Sector Reform (SSR)* and *Rule of Law (RoL)* measures with the *EU Police Mission in Kinshasa (EUPOL Kinshasa)* and the *EU Security Sector Reform Mission in the Democratic Republic of the Congo (EUSEC RD Congo)*. Finally, the EU on two occasions deployed military missions at crucial points during the peace process, sending a clear message that Europe would not allow the process to fail. These missions, the *EU Military Operation in Democratic Republic of Congo (Artemis)*, and *EUFOR RD Congo*, thus played an important role in the successful holding of the elections.

However, it must never be forgotten that the true engine moving the entire peace process forward were the Congolese people. This was demonstrated in the most impressive manner through their massive participation in both the referendum on the new constitution in December 2005 and of course the elections in July and October 2006. Even calls for boycott by a number of influential political parties and institutions, occasional outbreaks of violence, and the great logistical difficulties of reaching polling stations in a huge country practically without infrastructure did not deter the Congolese from participating. Taking these factors into account, one must call the entire electoral process from the constitutional referendum to the introduction of voter identification cards and culminating in the two rounds of elections in 2006 a great success. While there were certainly numerous shortcomings, I believe that the elections truly reflected the will of

the people of the DRC and that – under the given conditions – they were the best elections one could realistically hope for.

The Importance of Democratic Values

At the same time, it is crucial to reiterate the now widely accepted lesson that the successful holding of one election does not guarantee continued peace, stability, and democracy in a post-conflict country. What elections can achieve is to give legitimacy to existing institutions. What they cannot do – but which is crucial for a sustainable democracy – is to instil a respect for certain basic rules among both the population and the political leadership of all political parties. The right of the people to choose their leaders and to change them at regular intervals is only one of these rules. Other rules, such as the respect for human rights and fundamental freedoms, the separation of powers, good governance, and the rule of law, do not automatically derive from the holding of elections. But without them, going to the polls every four or five years is a meaningless exercise.

In this context one sometimes hears the argument that democracy is fundamentally alien to African political culture. I am convinced that this claim is wrong. In fact, many traditional African societies practice democratic forms of decision-making, including in the selection of chiefs. It must be admitted, however, that certain elements of Western democracy are difficult to establish in African political systems. I think in particular of the role of the opposition as a permanent element of a democratic dialectic. In my experience, both from the DRC as well as from Mozambique, the losing side in African elections faces two challenges. Firstly, it is not seen by the majority as a legitimate and necessary part of the political system, but rather treated like a defeated enemy. Secondly, and partly in reaction to this treatment, the minority does not feel any responsibility to contribute anything to the political process. As one opposition politician told me once:

“Why should I spend my time thinking about our problems? We have an elected leader. Running the country is his problem.” Instead of offering constructive alternatives to government policies, African opposition parties have a tendency to splinter and disappear through a combination of government pressure, lack of funding, and an absence of a genuine political agenda. As a consequence, I think that rather than importing the confrontational European-style of democracy, African post-conflict countries would be better served with a political model emphasizing government by consensus and reaching out to minority parties.

Security Sector Reform and the Rule of Law

I would like to draw one final lesson from my experience. This is the central importance of SSR in combination with RoL measures. The current situation in the DRC unfortunately clearly shows that without functioning security and justice sectors, democracy is simply a buzzword and government remains arbitrary and unaccountable to the local citizens in spite of occasional “successful” elections. Simply put, the three main actors in these fields – the Congolese armed forces, the police, and the judicial system – are far from any acceptable minimum standard of performance. The armed forces are probably the greatest problem; in fact they are the main cause of insecurity in most parts of the DRC. Army members are committing numerous ordinary crimes and human rights violations. The reasons are not hard to find: their salaries are miserable – if they are paid. Equipment, housing, food, training, and leadership are equally deficient. As a result, morale and discipline are low. Rather than protecting the country against aggressors or preventing the illegal exploitation of its natural resources, the armed forces prey on the civilian population. The police and judicial system are plagued by many of the same prob-

lems yet seem to be improving, at least partly because of the international assistance programs I mentioned above.

This brief description should make it clear that supporting SSR and RoL activities must be the first priority of the international community in the DRC. In reality, however, international donors in my experience are extremely reluctant to get involved in this field, particularly in SSR. I can only speculate about the reasons for this behaviour, but I suspect that there remain some ideological barriers among certain international actors about financing anything remotely “military” in nature. In addition, in most donor countries expenditures for SSR programs are not counted as *Official Development Assistance* (ODA) which reduces their political attractiveness.

Discussion

The discussion following the presentations focussed on two issues: the future development of the Democratic Republic of the Congo and the role of the media in post-conflict electoral processes.

Meeting High Expectations in the DRC

Participants currently working in the DRC reported that there was a widespread sense of optimism among the Congolese people and even a willingness to cooperate across party lines in both houses of parliament. This positive mood was accompanied, however, with unrealistically high expectations of rapid and tangible improvements of living conditions. These would prove hard to meet even in a more stable society with better conditions for development. Given the situation facing the DRC, such hopes are bound to be disappointed as the ability of the new government to deliver broad-based economic improvements is very limited. Several participants voiced their concern that the current optimism could after a “honeymoon period” easily turn into a rejection of the newly established political system and, ultimately, to a recurrence of open conflict.

Several issues were named that needed to be addressed to avoid this dangerous mood swing: most importantly, the absence of employment opportunities, the continuing conflicts over land and ethnicity in the east of the country, the unfinished process of Disarmament, Demobilization, and Reintegration (DDR), and the lack of effective Security Sector Reform. The DRC will not be able to achieve progress in any of these fields without international support. Unfortunately, however, international actors had withdrawn a large part of their personnel, funding, and attention after elections had been successfully held and

media coverage had moved elsewhere. Some participants disagreed and mentioned that the UNDP alone has pledged ca. US\$ 300 million to the DRC for the post-election period.

A feeling was also voiced that the World Bank had mismanaged its involvement in the DDR and SSR processes, partly through rigid procedural rules and partly through a dogmatic application of the principle of local ownership. Participants argued that this approach, while very important in general, did not work in the specific case of DDR where the likely presence of spoilers among ex-combatants made a more robust international involvement necessary.

Other participants pointed out that the influence of international actors such as the UN, EU and AU were increasingly limited by the entry of China. Its considerable economic interests in Africa are now safeguarded by generous loans to governments that – in contrast to the development assistance by other actors – have no conditions attached to them. Finally, it was mentioned that president Kabila has clearly changed his approach to the international community which in the past was fully cooperative and is now showing a growing tendency to demonstrate his independence.

The Role of the Media

The importance of free yet responsible media in post-conflict electoral processes is undisputed. On the one hand, the right to free speech is fundamental and a free press has a vital control function in democratic societies. On the other hand, however, party-driven media playing on the fears and prejudices of the population can do untold damage in a nation that has only recently emerged from violent conflict. One obvious pitfall is that the ensuing call for “responsible behaviour” can easily be used by the government to silence opposition media.

The dilemma is aggravated by the lack of truly independent media in many post-conflict societies. State- or party-owned media companies sometimes do not have the public interest in mind but rather are partisan mouthpieces of the incumbent government. One measure proposed by participants that has been practiced successfully is the self-regulation of the media through an agreed code of conduct that is carefully formulated to allow criticism but outlaw abuses. It is also vital that an independent body is set up to monitor the behaviour of the press and sanction any transgressions and grant equal access to the most important publicly owned media platforms, particularly radio and television, to all political parties. Electoral management bodies should develop a media policy and appoint qualified personnel to monitor and liaise with the press. This not only allows an election commission to fulfill its key role of public education about electoral procedures and rules more effectively. It also makes sure that the commission can react quickly and with one voice to rumours about irregularities.

II. Electoral Commissions, Funding, and International Assistance

James M. Fromayan

Chairman, National Election Commission, Liberia

Liberia's foundation as a nation-state was laid by freed slaves from the United States of America in the early 19th century. The freed slaves, otherwise known as Americo-Liberians or settlers, constituted about five percent of the country's population while the 95 percent comprised the indigenous population. In 1847, the settlers declared Liberia an independent and sovereign nation. They established a Western-style government closely patterned after that of the USA. To some extent, multi-party democracy existed in Liberia among the settlers. However, the indigenous population which constituted the overwhelming majority of the population was largely excluded from the political, economic, and social life of the country. The social inequality was a major contributing factor to the military coup in 1980 that brought to an end 133 years of the Americo-Liberians' political, social, and economic hegemony in Liberia.

Although the military take-over was initially welcomed by many Liberians, it did not take long before the military junta began to show its true colors of repression. The semblance of the rule of law that existed before vanished with the military attacking its critics. When the military leader succumbed to public pressure and accepted the holding of Presidential and Legislative elections in 1985 in a truly multi-party system, those elections were rigged in favor of the junta leader who participated as a civilian candidate. That electoral theft coupled with the unending repressive policies of the government made most Liberians to embrace the rebellion of 1989.

The 1989 Armed Rebellion

Like the after 1980 military coup, it quickly became apparent that leaders of the rebellion were driven by the lust of power and greed. They committed even more atrocities than the regime they were fighting to overthrow. Owing to the wanton killing of civilians by the then collapsed government and the rebels, ECOWAS intervened militarily in a bid to restore calm and thus paving the way for the holding of democratic elections. The ECOWAS initiative led to the holding of Presidential and Legislative elections in 1997. Unfortunately for Liberia, the results of those elections did not usher in the peace and stability that the country so desired. By May 2003, the rebel had entered the capital, Monrovia, with the government under virtual siege. It was at that point that the international community led by ECOWAS arranged a peace conference in Accra, Ghana, aimed at bringing lasting solution to the crisis.

The Accra Peace Conference 2003

The Accra Peace Conference was attended by the three warring parties, *Liberians United for Reconciliation and Democracy (LURD)*, *Movement for Democracy in Liberia (MODEL)*, and the collapsed *Government of Liberia (GoL)*. Also in attendance were political parties and civic society. Under the terms of the Accra Peace Conference, an interim governing body known as the Liberia National Transitional Government was elected and given three key mandates:

- Disarmament, Demobilization, and Reintegration (DDR) of former combatants;
- resettlement of the internally displaced and the repatriation of refugees;
- holding of democratic elections.

The transitional government had a life span of two years as of the signing of the agreement on August 18, 2003. In February 2004, the Chairman of the Transitional Government nominated members of the Electoral Commission who were subsequently confirmed by the Legislative Assembly. The previous Electoral Commission was deemed dissolved like the government that it was part of.

The National Elections Commission

The *National Elections Commission of Liberia* (NEC) is an autonomous agency that operates independent of the three branches of the Liberian Government consistent with Article 89 of the Liberian Constitution. The NEC is composed of seven Commissioners, nominated by the President and confirmed by the Senate. The Commissioners served for a period of seven years subject to renewal. They may be removed from office through an impeachment proceeding for felony and other major acts incompatible with their status.

The Board of Commissioners makes policy decisions and the Secretariat headed by the Executive Director implement the decisions of the Board. The Secretariat consists of Administration, Operations, and External Relations departments. Other sections of the Secretariat include Field Coordination, Legal, Finance, Training, Information, Civic Education, Information Technology and Records.

The Commission is funded by the Government of Liberia with assistance from international donor organizations such as UNDP, the European Union, etc. However, funds allocated to the NEC by the Government are provided on a micro basis. The Commission, like other government ministries and agencies, goes through the formalities of making regular requisition for operational funds and running behind monthly salaries at the Ministry of Finance. This method of funding

has at times served as barrier to the prompt implementation of the Commission's activities.

International Support

Due to the post-conflict nature, the 2005 elections were conducted with large international involvement and assistance both at the financial and technical levels. At the onset, ambiguity existed with respect to the roles of the NEC and the UNMIL Electoral Mission. The prompt intervention of ECOWAS led to a clear division of labour: The UNMIL Electoral Mission would mobilize international assistance and give technical support while the NEC would conduct the elections. With terms of reference clearly defined, the NEC and the UNMIL put into motion a workable electoral mechanism that successfully ensured the drafting and passage of the Electoral Reform Law, electoral districts delimitation, voter registration, and the conduct of the elections.

About US\$ 18.8 million was expended on the conduct of the 2005 elections. Of that amount, 4.5 million was contributed by the government of Liberia and 14.3 million by the international community. The UNMIL Electoral Division expended the largest percentage of the international contribution followed by the *International Foundation for Electoral System (IFES)*, UNDP, ECOWAS, the *National Democratic Institute for International Affairs (NDI)*, and the *International Republican Institute (IRI)*. The NEC and UNMIL working relationship was characterized by cordiality and the result was the conduct of elections that, by all standards, were the most transparent, free, and fair elections in Liberia's history.

Lessons Learned

While international electoral assistance must be appreciated in a country emerging from a devastating civil war, it should never be considered a substitute for national efforts. Experience has clearly shown that international donor institutions on many occasions dictate the course of action for the national institutions. For example, donors' agencies during the 2005 elections in Liberia selected which budget lines they could support instead of allowing the NEC to make that decision.

African governments, therefore, must rise to the occasion by allocating more resources to the various electoral commissions thereby erasing the indispensable nature of international assistance for the conduct of African elections.

To organize and effectively conduct an election required a trained human resource, an effective legal framework that is impartial and just, and a Board of Commissioners dedicated to the national interest. Moreover, the electoral commission must have ready access to funding to enhance its independence.

For countries emerging from conflicts, the value added of international technical assistance can not be over-emphasized. Like in the case of Liberia, there exists a massive brain drain as a result of the protracted civil conflict. Consequently, technical assistance became an indispensable asset for the conduct of the 2005 elections. The virtual absence of local legal, delimitation, and IT specialists crucial to the conduct of elections was filled by international technical assistance. Notwithstanding, technical assistance entails a tremendous financial burden for the struggling economies of a post-conflict nation. The best technical assistance, therefore, is one that seeks to build the sustainable capacity of local staff to enable the electoral commission to be less dependent on international technical assistance.

Christiana A. Thorpe

Chief Electoral Commissioner, Sierra Leone

In their efforts to organise elections, *Electoral Management Bodies* (EMBs) in post-conflict countries are facing many challenges, chief amongst which is funding. Due to the fragile economies of such nations it is often difficult for governments to adequately fund the electoral process. And even when funds are provided, they may prove to be insufficient or may be received in delay.

In order to maintain its independence and impartiality, an EMB should have some degree of budgetary independence, subject only to post-election audit. In other words, an EMB should have its own budget directly voted for by the national parliament rather than receiving an allocation from a government ministry or department.

There are instances in which ad hoc budgets are prepared and decided upon by the executive branch. This should be avoided as it is a threat to the independence of the EMB. There may also be occasions when the government may not facilitate the provision of safe funds of the election budget because it wants to control the EMB by keeping it financially dependent.

As a result of these pressures, EMBs in emerging democracies tend to rely on donor aid and international assistance which has a number of possible drawbacks:

- Earlier promises of support can be turned down at the eleventh hour because of changing economic or political conditions in the donor country.
- The freedom and fairness of the elections can be compromised because donor support has strings attached, e.g. the requirement to buy goods and services (IT equipment etc.) from the donor

country, often at a higher cost than if purchased in-country thereby inflating the overall costs.

- The donor country often insists on the recruitment of technical personnel from among its nationals who then receive high salaries.
- The funds are sometimes micro-managed by agents of the donor country which not see eye-to-eye with the EMB over the latter's needs.
- The long and cumbersome bureaucratic process to access external funds can adversely affect the timeline for an election.

Very importantly, EMBs must, therefore, work towards attaining both technical expertise and financial independence up to the point where external advice and funding will no longer be needed.

Hugh Fulton

Head of Electoral Division, OSCE Mission in Kosovo (OSCE ED)

It is important to realize that the Electoral Management Body (EMB) in Kosovo and their interaction with international actors present a different case compared to the other examples discussed so far during this Workshop. The main focus for this case study is transitional issues resulting from the transference of the executive mandate to the local EMB and the role of the international assistance mission thereafter.

Since the involvement of the *United Nations Interim Administration Mission in Kosovo* (UNMIK), the *Organization for Security and Cooperation in Europe* (OSCE) has held the responsibility for elections implementation. All five¹ of Kosovo's elections were subject to domestic and international observer scrutiny and were accepted by stakeholders for their technical merits – they all were also deemed to have met international election standards. The future issue for Kosovo is the recent declaration of independence. The soon to be issued electoral laws will require that a wholly local EMB assumes the executive mandate for the conduct of subsequent elections. Thus it is to this transitional process that this session addresses.

Electoral Administration

The *Central Election Commission* (CEC) has evolved through a number of formats but has, in all its guises, included representation from local Kosovo stakeholders. This has been an important and necessary process to ensure engagement, ownership, and conflict resolution and has been in place since the first elections of 2000. The structure of the CEC will change after June 2008 when it will become an entirely Kosovar institution. The chairperson of the CEC will then be appointed

¹ Kosovo Assembly elections held in 2001, 2004, and 2007. Municipal Assembly elections held in 2000, 2002, and 2007. Mayoral elections held in 2007.

by the President of Kosovo. Importantly, the representation by major political groups and communities remains a key feature. The CEC also has a full-time *Secretariat* (CECS), first established in 2003, staffed by civil servants. Its job is the actual implementation of the CEC's electoral functions. *Municipal Election Commissions* (MECs) are responsible for polling station management and some training programs and have existed since 2000. The third player is the *OSCE Electoral Division* (OSCE ED) whose role is to advise and monitor the CEC and the CECS and which also has an important oversight function.

Transition

Each of Kosovo's previous elections have been characterised by a different risk profile. The next Kosovo election will be characterised by transitional risk.

The main aspect of any transitional process concerns the willingness to hand over responsibility but more importantly the willingness to receive it. Having received ownership, the EMB is then required to achieve the aim of delivering elections to international standards and outcomes which are accepted by stakeholders. Change management is a painful process, even more so given the dynamics of delivering a high profile, high potential cost of failure, and highly complex project such as elections. Currently there is a general lack of CECS confidence to take ownership and address the many issues ahead. This is a consequence of reduced leadership, limited understanding of the electoral process, and the fact that the OSCE has held the mandate.

The CECS arguably was at its technical peak in 2004 but much of the continuity has been lost given a number of staff departures. Currently the CECS has been without a Chief Executive Officer for some months and the recruitment of a new incumbent is ongoing. The failure to recruit to the post means that leadership and management is diluted,

roles are unclear, internal communication is limited. Momentum is also slowing in this critical planning period. Bureaucratization is creeping in where a dynamic entrepreneurial approach is required. Limited ownership is also a feature given the traditional reliance upon the OSCE. If ultimate responsibility rests with the OSCE then there is little incentive to take charge, as stakeholders, including the EMB, expect the OSCE to intervene no matter what the level of handover that had been achieved.

Although transition had occurred to a considerable extent in 2004, the requirement to deliver three elections and a run-off in 2007 resulted in significant technical challenges. This meant that the OSCE had to intervene far more than it should have done to ensure successful project implementation. A further example of this related to the limited Kosovo Serb engagement in 2007 – it was left to the international community to facilitate voting in Kosovo Serb areas. To what degree then will the international community accept any reduction in standards? Thus, much work is required in any hand-over process especially to address the issue of sustainable transition which does not require the continued intervention of the international community.

Challenges Ahead

In the near future a set of election laws will be published. Indeed, this will be the first time that such a framework is delivered well in advance of the election and this should allow sufficient preparation time. However, the EMB inherits a very complex set of instructions for a highly advanced model of democracy which are also extremely difficult to administer. The question of technical sustainability, once the international community withdraws from the field of electoral management, is thus a very real one. One very good example is con-

ditional voting.² This measure was introduced to allow the participation of the largest possible percentage of internally displaced persons (IDPs) and members of ethnic minorities in the elections. It lets a voter whose name does not appear on the voters' list cast a ballot that will be counted once his eligibility to vote can be established.

The new law will also require further voter re-allocation, and will permit out-of-Kosovo voting for municipal and mayoral elections. Thus the electoral process becomes very challenging when establishing a counting process, requires a highly sophisticated set of checks and balances to prevent fraud and to ensure "acceptance of results", extends the delivery timeline for final results and will prove to be very costly. Other issues that the EMB will have to contend with are:

- the introduction of new municipalities;
- political entity compliance;
- deteriorating voter list quality;
- engagement by all communities;
- uncertain timing and sequencing of elections;
- rising trend of fraud.

In summary, the major potential risks are voter confusion, a reduction in process quality, and uncertain political acceptance of process and results.

The transition dynamic also affects the OSCE and the international community. What is their role with the existing and new legal frameworks? Preparing for transition to local ownership was certainly always

2 Although by-mail and special needs voting are also conditional – votes will only count on condition that voters are eligible and have not voted in person – the issue being addressed here is in-person conditional voting.

part of the agenda, but one has to admit that it often came into conflict with other considerations. I have already mentioned that delivering elections able to stand the most rigorous outside scrutiny was one of the core tasks of OSCE ED. Two further elements were the delicate balance of internal Kosovo politics and the progress of the international negotiations on the future status of Kosovo.

In this constantly shifting mix of competing priorities, local ownership became quite difficult to implement in practice. The new demands on the OSCE are numerous, *inter alia*: a source of capacity building and political protection, a focus for blame, a means to ensure inclusion of all communities, compliance and oversight, early warning, technical support. Transition affects not only the EMB but re-defines the role of those involved with international assistance programmes.

It is important not to forget that the Electoral Complaints and Appeals Commission (ECAC) is also formed locally as a consequence of new legislation. This independent oversight and redress body also plays an important role in determining election outcomes. Similarly to the EMB, they too will adhere to Kosovo law. A future election is dependent upon effective management of both bodies, both of which will be required to undertake election tasking to international standards, both of which have separate but related function, both of which may be subject to politicisation, and both of which are engaged in delivering a very complex electoral system. A further point summarising the above is the absolute requirement for Kosovo stakeholders to enjoy faith in institutions, to avoid politicisation of the CECS and ECAC, and to accept election outcomes.

Sustainable transition is not only about technical competence – the financial sustainability is a very important factor. The advanced democratic model comes at some considerable cost to the taxpayer. A simplified operational model will reduce the public burden. Further,

enhancing or raising EMB remuneration would ensure that better staff are attracted to the institution.

A final point of note for Kosovo is that it is not only the election process that is undergoing transition. Most facets of government, society, and the economy are also in transition, therefore further potential problems may occur as the operating environment seeks to find its own stability.

Conclusion

The OSCE has been able to manage an exceptionally complex process and has built considerable expertise with its local staff – most stakeholders have faith in the ability of the OSCE to conduct free and fair elections. Consequently there may very well be a higher level of expectations than a newly composed EMB is capable of delivering. Notwithstanding the last point, generally speaking, election success is dependent upon two things: experienced, motivated, and competent staff, and a simple process. Both aspects of this formula will remain as the main challenges for the EMB. The main transitional issue in the Kosovo context surrounds the relationship between the EMB and the international assistance effort. Thus the key issue is the disengagement with responsibility by the international community and the willingness, by the EMB, to stand up to its responsibilities.

Discussion

The discussion following the presentations focussed firstly on the complex relationship between national electoral commissions and international actors, in particular the different peace operations like MONUC and EUFOR and secondly on the challenges of building up electoral commissions and their capacities in post-conflict societies.

Relationship between Local Electoral Commissions and the International Presence

Even though everyone is quick to stress the importance of national ownership of electoral commissions, it is equally clear that international electoral assistance remains crucial in post-conflict settings. There also remains a significant discrepancy between the legal assumption and the de facto implementation of national ownership. Both in the DRC and in Liberia, for instance, the election units of the UN missions were much bigger regarding resources and personnel than the national election commissions and therefore exerted a much greater influence than their mandates had originally foreseen. In addition, the relationship of international and local electoral actors is often characterized by the hesitation of the international community to hand over responsibilities to national electoral commissions and the corresponding unwillingness of these commissions to actually demand and fulfil such responsibilities.

Another issue which was raised during the discussion was the growing tendency of co-locating international and national electoral actors. Drawing on the experiences from Kosovo and Liberia but also from Sierra Leone and the DRC, participants concluded that best progress in terms of local ownership is made in those countries in which inter-

national assistance missions and the national electoral commissions are co-located in the very same building.

Building up Capacities of Electoral Commissions

Participants deplored the lack of financial and personnel capacities of electoral commissions in post-conflict countries. These problems often lead to citizens' mistrust in the electoral commissions and to disengagement of political parties and civil society from the electoral process. The shortage of funds for the electoral commissions of Sierra Leone, the DRC, and Kosovo, for example, had the consequence that the implementation of electoral laws suffered, staff could not be paid and voter education campaigns had to be curtailed. In addition, it was noted that national electoral commissions often suffered from a lack of professional expertise. In Sierra Leone, for instance, none of the commissioners was either experienced or trained. Consequently, the electoral staff underwent trainings for nine months on a basic educational level at the KAIPTC in Ghana.

The question of independence of electoral commissions was identified as another matter of concern. In countries such as the DRC, Sierra Leone, and Liberia, the composition of the electoral commission and the nomination of commissioners is an intransparent process. To make matters worse, electoral commissions are often under the direct supervision of the ministry of the interior or of justice. Under these circumstances electoral commissions cannot be expected to act as an independent body and to be trusted by the population.

Overall, participants concluded that five principles are key for a successful electoral process:

- commitment of the national government, the political parties, and the civil society;
- inclusiveness of the electoral process;

- impartiality and transparency of the electoral commission;
- professionalisation of the electoral commission, e.g. skills and expertise of the electoral staff in the field of election and democracy; and
- sustainability of the electoral process, e.g. capacity building and transfer of knowledge.

III. The Role of Modern Technology in Elections

Tajouidine Ali-Diabacté

Deputy Director, Electoral Assistance Division, UN-DPA

The conduct of elections has changed in many ways over the past twenty years with the introduction of modern technologies in electoral processes. There are three main aspects of elections affected by modern technology:

- boundary delimitation, mapping systems, and public outreach;
- voter's registration;
- electronic voting and publication of results.

Without doubt, these technologies will be used even more broadly in future elections and all electoral management bodies, including those in post-conflict countries, will have to deal with them. This development leads to two questions: What are the possible *benefits* arising from the use of modern technology in the electoral context? And what are the particular *challenges and risks* posed by the application of modern technologies in elections? Before trying to answer these questions it is important to familiarize ourselves with the modern technologies introduced in the electoral processes during the last two decades. We must also understand in what context these modern technologies are being employed. This will then allow us to form a clearer impression of possible risks and benefits. The following list contains some examples of technologies but is by no means exhaustive:

- *Geographic Information System (GIS)*; GIS allows the combining and analyzing of geographically referenced information. It is used in many electoral processes nowadays, for example together with

the Global Positioning System (GPS) and other satellite based information (e.g. photographs) for mapping.

- *data recognition*; data recognition via Optical Mark Recognition (OMR) allows detecting the marks of the voters, e.g. on ballot papers and during voter registration. Optical Character Recognition (OCR) enables the computer to read handwritten characters. Punch Card Systems store data by using hole-codes punched on cards. Computers in combination with scanners are afterwards able to recognize the information automatically.
- *data recording*; many technologies are available for data recording, from paper records to provide printed records of the voter's action to Direct Record Electronic (DRE) systems where the voter uses a keyboard, touch screen, or digital pen to record the voting action.
- *data collection and transfer*; the collection, entry and transfer of data is a key field of technology use in elections. Computers are of course used to collect and compile data. The internet is used both for voting ("online voting") and to transfer data. Websites are used to post all kind of relevant information, from voters' lists to election results. Land lines, cell phones, text messages (SMS), and *Very Small Aperture Terminals* (VSAT) are used for the collection and quick transfer of data.

Benefits and Challenges

Regarding the benefits of modern technologies in the electoral contexts, it has been argued that in post-conflict situations their introduction can serve to build confidence among national and international stakeholders. Examples from the field show that often the opposition advocates the use of technology in order to guarantee a transparent process. Another possible benefit from the use of technology is efficiency gains, especially in large countries without trans-

port infrastructure like the DRC. It can also increase electoral turn-out as it is quicker than manual and paper based processes and reduce the possibilities of fraud because of the quicker announcement of results. In certain situations modern technology makes it possible to execute several operations simultaneously, such as personal data capture and ID card delivery. Sometimes the use of modern technology can actually decrease the cost of the elections. For example, the highly complex DRC elections only cost US\$ 2.5 per voter.

With regard to the challenges, one must never forget that new technologies alone are no guarantee for free and fair elections. Transparent ballot boxes do not necessarily mean transparent elections. Though a process is being computerized, it is still vulnerable to manipulation by experts, and the manipulation might actually be less visible than before. Technology can become a barrier if the general population is unfamiliar with the new tools. In certain cases, technology undoubtedly increases the cost of elections: Côte d'Ivoire is one example where costs for voters' registration for the current electoral cycle are exploding. Another danger is that donors might be tempted into quick and visible projects that might not be sustainable in post-conflict countries. What happens with the next elections? Will the technology still be there? Problems with technical assistance for the following elections arise if there is no knowledge transfer through training measures for local staff. There have also already been cases of pressure by donors and vendors on local electoral management bodies to buy election-related technologies from specific companies, usually from the same country as the donor agency.

Conclusion

The introduction of modern technology in elections can be useful to address specific problems. However, modern technologies are clearly not a panacea and should strictly be considered on a case-by-case

basis. Modern technologies must not undermine the local culture. One also should not introduce them as international standard. The context in which the elections take place has to be taken into consideration. As a general principle, I think new technologies should be introduced in cases where they will increase public and political confidence in the electoral process or at the very least not undermine it.

Keith Jennings

President, African American Human Rights Foundation

Technology and Elections in Post-Conflict Countries

The scientific and technological revolution has provided us with new tools previously only imagined in science fiction movies. The existence and increasing availability of computers, scanners, servers, digital cameras, fax machines, cell phones, and the internet has begun to change the way elections are conducted throughout the international community. Recent innovations in information technology is attractive because many decision makers as well as citizens believe that it can solve major problems associated with elections or assist election management bodies in overcoming public doubts and lack of confidence in the electoral process.

The following three key observations were made by the National Democratic Institute (NDI) in its groundbreaking publication on monitoring electronic technologies in elections:

First, electronic technologies are increasingly important to election processes around the world. Without doubt they will be used ever more broadly in future elections and the integrity of elections will increasingly depend on their proper functioning. There are definite benefits accompanying the appropriate application of electronic technologies in the electoral context. The benefits include more rapid performance and the potential elimination of possibilities for certain types of errors and fraud. At the same time, every technology, including electronic technology, brings with it challenges and risks that must be addressed.

Second, electronic technologies pose particular challenges and risks, because they often limit transparency in elections, which makes it more difficult for the public to know whether elections are genuine, or

somehow tainted or fraudulent. In particular, electronic technologies pose a critical challenge to election monitoring because their operation is not observable by the naked eye. Thus, it is particularly difficult to establish whether the technologies are functioning properly or whether there are malfunctions and even fraudulent outcomes that subvert electoral integrity. This concern must be addressed by:

- policy makers, who draft, debate, and enact laws and regulations;
- election and other governmental officials, who administer processes that are central to elections;
- political parties and candidates, who seek to exercise their right to be elected to represent the people; and
- citizens, who seek to exercise their sovereign right to choose representatives.

Monitoring the application of electronic technologies, therefore, is a key element of guaranteeing genuine democratic elections.

Third, every electronic device used in elections operates and interacts with a variety of inputs in a set of circumstances that provides a context or environment. In order to understand the interaction between election officials, voters, political contestants, and electoral technology, observers must examine and analyze the environment in which the equipment is being used.

Since there are no international standards for the use of technology in electoral processes, several other factors must be considered, especially in post-conflict societies when considering the introduction of new electoral technologies. Those factors include the following:

- the political environment;
- the electoral framework;

- the production standards followed by the equipment manufacturers; and
- the funding available to conduct the electoral process.

The Political Environment

Two aspects are particularly noteworthy: *first*, whether we are dealing with a controlled or uncontrolled environment and *second*, the political context within which the elections are taking place.

Environments can be classified as *uncontrolled* if any of the following exist: representatives of political contestants, non-partisan domestic election monitoring organizations and other appropriately authorized persons are not physically present, and are not able to access and observe the environment; election officials are not present, not in charge of the process or do not have legal responsibilities and powers to ensure the accuracy and integrity of the electoral process; and access, whether physical or virtual, to the environment, including the technological devices, is not secured and controlled, and is not regulated by a process that is independently auditable and verifiable. Alternatively, a *controlled* environment is one where all the above mentioned factors do exist.

The environment is also affected by the political context which is determined by the type of conflict that is being overcome (civil war, repressive/authoritarian regime, etc.), the nature of the settlement agreement if there is one, the level of development, the funding available for the elections and character of the conflict and its impact on the social, political, cultural realities in the country.

Civil Society and New Technology

The discussion on the use of technology is often focused on election commissions. However, it is also important to consider its use by civil

society, which is often running ahead of election management bodies when it comes to familiarity with information technology. NGOs have used technology effectively in conducting election observations. Some have perfected the ability to conduct parallel vote tabulations and others have monitored elections almost entirely through the use of cell phones and SMS messaging and the internet. This has been the case in the Philippines, Cambodia, Sierra Leone, and most recently in Zimbabwe.

Key Challenges

Public confidence in the electoral process is not automatic. In fact, the introduction of technology can be seen as a gimmick to confuse the population and engineer a predetermined outcome. Technology sometimes does not work the way it is intended to function. To give an extreme example, in the US state of Florida during the 2004 elections, there were voting machines that started counting backward once a specific number of votes had been cast. In North Carolina, election officials had over-estimated the storage capacity of voting machines which led to several elections having to be re-run because the margins between the top candidates was less than the number of voters that may not have been recorded.

Finally, the behaviour of donor countries and manufacturers must sometimes be guarded against. Some donors will push very hard for the introduction of new technologies in electoral processes and then encourage or strongly encourage the purchase of the equipment needed from companies based in their countries. To some this may be a legitimate way of doing business, to others it is imposition and if the technology being introduced is not adequate or skill transfer is not sufficient, it may inadvertently place the post-conflict society in a loop that continues to require outside assistance for a long time.

Lessons Learned

I have had the opportunity to work on elections in several post-conflict situations including Angola, Cambodia, East Timor, Guyana, Haiti, Liberia, Mozambique, Nicaragua, Sierra Leone, and South Africa. Based on those practical experiences I believe the following are among the most important lessons learned when it comes to the use or introduction of new technologies in post-conflict countries:

- It must be clear who is in charge of the elections. Whether it is an international or a regional organization or a national election commission. The worst situation is when several entities believe that it is their responsibility to manage the electoral process and to determine if any technology will be used during an electoral process and what type it will be.
- It needs to be clarified whether the national legal framework permits the use of new technologies. In some cases the law could be silent and aggressive election officials may take advantage and impose their will on the process.
- A key issue is the legal relationship between the election management body and the owner of the source codes for the software being used in the electoral process. Some companies believe that intellectual property laws mean that the codes are their exclusive property that does not have to be shared with anyone, including their paying customers. This factor is often overlooked by election management bodies, yet it is vital to ensure the transparency of the electoral process.
- Citizens should be introduced to the new technology, especially voting technology, before it is put to use on polling day. An extensive voter education process makes it easier to obtain citizens agreement and support for the use of new technology. It can also

avoid the hidden disenfranchisement often caused in part by fears generated at a generational level or due to the existence of the digital divide.

- It is important to evaluate the technology to be introduced from the point of view of long-term sustainability. Having a functioning system on polling day is vital but not enough. This process must include secondary systems, such as those used for data transmission.
- The transfer of skills has to be an explicit part of the introduction of new technology. Otherwise it will lead to more dependence of national election officials on donors or foreign experts.
- It is important that access – whether physical or virtual – by election officials, political contestants, and citizens organization to the technological devices is possible in a secured and controlled environment that is regulated by a process that is also independently auditable and verifiable.
- Technology must be seen as only one factor in a much broader equation. Knowledge of the electoral choices, the presence or absence of intimidation, the competence and integrity of electoral officials at all levels are among the environmental factors that have direct and substantive impact on the performance of electronic technologies in elections.
- There is no substitute for good leadership and sound management by the head of the election commission. Mistakes made at this level can lead various actors to (wrongly) assume that the commission intends to manipulate the elections with the new technology it is introducing. Transparency and accountability must be built into the electoral process and this will make the introduction of new technologies easier to be embraced by the public.

Discussion

It became clear during the discussion that three different aspects of post-conflict elections are affected by the introduction of modern technology: *firstly*, the preparation and administration of elections, *secondly*, the actual casting and counting of votes, and *thirdly*, election observation. Participants judged the effect of modern technology on these three fields quite differently. There was broad agreement that technology's impact on both election administration and observation was largely positive, provided that the key issue of sustainability could be addressed. Yet most participants were deeply sceptical about the introduction of electronic voting in post-conflict societies. This method is fraught with serious problems that even stable and highly developed nations find difficult to handle.

Technology in Election Administration

There is no doubt that modern technology is an indispensable tool for electoral management bodies. Most of their duties – from day-to-day office work and voting district delimitation to voters' education programs and the tallying of results on election day – simply cannot be executed without technological support. One key aspect that was mentioned repeatedly was the compiling of voters' lists and the production of voters' identification cards. Apart from forming the basis of the electoral process, several participants noted that the issue of modern voters' IDs had a positive "side-effect": in many post-conflict settings they are the only form of identification and proof of citizenship available and thus were of great practical and psychological value to the population. One participant went so far as to state that the considerable international support of the elections in the DRC had

been worthwhile even if only for the benefit of the voters' cards that were introduced.

Yet while the use of technology brings great advantages for electoral management bodies, there are also drawbacks. Modern technology can be brought to post-conflict societies only through international funding and expertise. This is true both for the machinery itself and for the infrastructure on which they depend – computers need electricity. In the past, high-tech equipment supplied by the international community was often dismantled soon after elections and shipped to the next post-conflict hotspot. This happened, for example, in Liberia in 2005. In other cases, the equipment remained the property of foreign donors and was stored in warehouses until it was useless, as in Haiti during the 1990s. As a consequence, participants suggested that at least basic equipment should be donated to national electoral management bodies. In addition, regional pools could be created for expensive specialized equipment that could then be shared among neighboring countries.

The second element necessary to create sustainable election management structures is capacity building measures for national staff. Without this skill transfer, permanent dependencies emerge that prevent the development of full national ownership of the process.

Electronic Voting and Counting

Potential hazards were the focus of the debate on the use of technology in the voting booth. A key concern was the reliability of electronic "voting machines" and, in particular, the software controlling them. The proper functioning of the equipment is very difficult to verify, both by the electoral management body and the individual voter. In order to do so, one participant noted, one would have to access the software source codes. This, however, constitutes

an infringement of the intellectual property rights of the manufacturer and thus cannot be done without his consent – which is not often given.

Given the decidedly mixed experience with electronic voting in some of the most technologically advanced nations, the consensus among participants was that this was not a promising field for the use of modern technology. In addition, it was also pointed out that electronic voting would pose almost intractable problems for election observation missions. One participant asked: “Will we in the future have to recruit software engineers as observers? Or should we rather train our existing observer pool as IT experts?”

Technology and Election Observation

That modern technology may have a positive impact on election observation became clear, however, when participants described the creative ways in which it has been used by local civil society organizations. The use of cell phones and text messaging by local election observers on election day to keep the organization’s headquarters informed about possible irregularities as well as about local vote counts is one positive example. This method was practiced widely by the Sierra Leonean *National Election Watch* (NEW), but also by NGOs from Liberia and Senegal.

Certain large and well-equipped organizations, such as the Zimbabwe Election Support Network (ZESN) and the National Movement for Free Elections (NAMFREL) in the Philippines, had even been able to prepare rapid Parallel Vote Tabulations (PVT) that highlighted inconsistencies in the results later published by the national election commissions. The advantage of this method lies in the fact that it makes use of the only product of modern technology that is already widely available in most post-conflict societies, the cell phone. As a result, only a mini-

mum of training and technological support by external actors is required to strengthen genuinely local election observation capabilities.

IV. Electoral Complaints and the Justice System

Norbert Koster

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Practical Aspects of the Complaints and Appeals Process

When addressing the issue of complaints and appeals in post-conflict elections, the most fundamental question is: What agency should hear such cases? There are two possible answers. In some countries they are dealt with by an existing law court, normally the Supreme or Constitutional Court. In other countries, a specialized body is established to hear and decide electoral complaints and appeals. This was the case in Kosovo with the *Election Complaints and Appeals Sub-Commission* (ECAC) as whose chairman I acted in 2007.

As elections are only sporadic events, the next question that needs to be answered is: Should such a specialized body be temporary or permanent? I believe that a permanent institution would be greatly preferable, for legal reasons as well as for reasons of efficiency. Reality, however, at least in Kosovo, is different. The international community, which under UNMIK's executive mandate was responsible for holding elections in Kosovo in the years from 2000 to 2007, on each occasion thought that the next election would be the last it would be organizing and therefore never invested in permanent structures. As a result, hard-won experience and institutional memory were lost, the wheel had to be re-invented several times, and ECAC staff repeatedly lost valuable time locating local staff, office space, and equipment, and even securing a functioning postal address in a mad rush shortly before the election date.

As this description makes clear, if no permanent complaints and appeals commission is set up, at the very least a temporary body must be established in a timely manner – and not six weeks before the election, as happened in Kosovo in 2007. This is not only important in order to allow the commission to put all its practical necessities in place. It is also vitally important that the commission has sufficient time to produce its own rules and procedures, to present these to the political parties, and to conduct a public awareness campaign. Clearly, a complaints and appeals process that no one understands or even knows about is pointless. Furthermore, materials, such as complaint forms for distribution in polling stations, must be produced and distributed and election officials must be trained on their role in the complaints and appeals process.

Electoral Laws and Regulations

With 19 years of experience as a judge, I have often been astonished by the negligent way in which the electoral law and other relevant regulations in Kosovo have been created over the years. For example, the legal framework governing the elections of 2007 was adopted virtually unchanged from the last election in 2004, in spite of important constitutional and organizational changes during those three years. In addition, there were numerous contradictions between competing regulations drawn up by UNMIK and the Kosovo *Central Election Commission* (CEC). Finally, there was some confusion as to the exact separation of competencies between ECAC and the CEC. All this obviously made the work of ECAC very difficult.

As Hugh Fulton pointed out yesterday, the main reason for this poor performance was the extreme time pressure under which the legal framework had to be prepared. I think there is a clear lesson to be learned here: those responsible for formulating electoral laws must be made aware of the great importance of the quality of their work

for the quality of the subsequent elections. It is clear, furthermore, that the quality of legislative work is connected to the time spent on drafting and discussions between local political actors, electoral institutions, and local and international experts. It follows that more room must be made in electoral timetables to allow for this process. I am convinced that the workload of complaints and appeals commissions and other election management bodies in post-conflict countries could be significantly reduced and many potentially dangerous disputes be completely avoided if electoral laws and regulations were of better quality.

The Work of ECAC in the 2007 Elections

To give you an insight into the challenges facing an electoral complaints and appeals commission, let me briefly describe the work of ECAC in the three elections – national assembly, municipal assemblies, and mayoral – held in Kosovo in November 2007. ECAC consisted of five commissioners, three local ones – two Supreme Court judges and the president of a District Court – and two international ones, one of whom – myself – acted as the chairman. Each panel hearing a case consisted of two local and one international commissioner with decisions being taken by simple majority. This was in my opinion a great improvement over the arrangement during earlier elections. Then, panels had to decide unanimously, and, if that proved impossible, the decision rested with the commission chairman. In spite of misgivings by certain international experts over the local majority in the panels the new arrangement worked flawlessly. I also feel that it was an important step towards establishing local ownership in the field of election management.

In total, ECAC received 585 complaints each of which had to be

- registered,
- translated from Albanian or Serbo-Croatian into English,
- sent to the accused party for comment,
- investigated by ECAC staff to determine the facts,
- deliberated upon by a panel,
- and finally addressed with a full, written decision.

This process took place under enormous time pressure put upon ECAC from all sides as of course election results cannot be certified before the complaints and appeals commission has decided all pending cases.

Broadly speaking, complaints were filed with ECAC in three distinct phases. They concerned

- the late withdrawal of Serbian candidates after Serb authorities decided to boycott the elections;
- breaches of campaigning rules (illegal postering, damaging opponents campaign materials, unregistered rallies, etc.);
- irregularities on election day in or around polling stations.

This last category clearly presented the most serious challenge. It soon became apparent that the majority of complaints concerned a small number of polling stations, two percent of the total. Investigations then showed that results had indeed been manipulated. At this point, established rules left ECAC with two options: either a recount of votes or an annulment of results and re-run of the entire election. Yet a recount is only useful as an investigative instrument. It is not a legal remedy and a repeat of the elections would have had disastrous consequences for the political development of Kosovo. The decision reached – after lengthy discussions with all local and international commissioners as well as the legal advisor of ECAC – was

not one originally foreseen by the electoral rules: ECAC annulled the results of the affected polling stations, but there was no re-run of the elections. Obviously, this disenfranchisement of a number of voters was far from ideal, but it affected only such a small percentage of the electorate that the election results still reflected the will of the people of Kosovo. Managing post-conflict elections sometimes calls for choosing the lesser of two evils, as I believe ECAC did in this case.

Christiana A. Thorpe

Chief Electoral Commissioner, Sierra Leone

The 2007 presidential and parliamentary elections in Sierra Leone were recognized both at domestic and international level as transparent and credible and as representing both a giant leap forward in the consolidation of the peace process and of democracy in the country. A key element of this success was the adoption of a comprehensive system to address complaints and adjudicate disputes as they arose.

The National Electoral Commission (NEC) and the government of Sierra Leone implemented a two-pronged approach, an *informal* complaints mechanism within the NEC and a *formal* judicial complaints mechanism through the High Courts. Electoral complaints and judicial mechanisms played a crucial role in the electoral process not only through the institutionalisation of systems of redress but also as confidence building measures. The mechanisms adopted, both formal and informal, held equal importance in the overall implementation of the electoral process.

Informal Complaints Mechanism

The informal processes within the NEC were instituted in two distinct phases, the pre-electoral phase and the elections and post-elections phase.

From the beginning of the electoral process the NEC widely publicised its intention to act in a completely transparent manner. Stakeholder groups were encouraged to engage with the Commission and to embrace their role as positive participants in the process as a whole. Special consideration was given to political parties as representatives of active constituencies. This approach informed the Commission's

behaviour in every aspect of the electoral process, from the development of procedures to the final announcement of the results.

As the level of activities increased during electoral preparations the NEC adopted a policy of engagement and consultation with political parties in a structured and systematic manner. The *Political Parties Liaison Committee* (PPLC) was institutionalised within the NEC as a forum where political parties could receive information on NEC actions and could raise issues of concern. In many cases the NEC responded to matters raised by adapting proposed procedures to accommodate political party interests, or, where this was not possible, was able to comprehensively explain decisions. Meeting on a bi-monthly basis, the PPLC played a vital role in bring forth contentious issues as they arose, and resolving them before escalation could occur limiting the spread of rumour or disinformation. It also served as an educational forum where parties received comprehensive information on the electoral process as a whole.

In addition, throughout the process political parties and other stakeholders frequently presented written queries, challenges, or statements of intent which NEC addressed as swiftly as possible. It was the internal policy of the NEC to provide written response to all issues raised in this manner within three days.

The NEC also widely publicised its intention to investigate all claims made against NEC staff in the case of allegations of wrongdoing, and encouraged all stakeholders including members of the public to bring issues to the NEC. As a result of this policy complaints were presented to the NEC after each phase in the process, including, but not limited to, voter registration and candidate nomination. Investigations of all allegations made against NEC staff were carried out and identified NEC staff were relieved of their posts prior to polling day. Subsequently political parties and civil society groups praised the NEC for their

transparency, engagement, and willingness to address issues regardless of the stance ultimately adopted.

Prior to polling day the NEC instituted an internal system to address complaints. Complaints were to be officially logged with all relevant information recorded. The information provided would then be investigated and, where necessary, action taken to address the complaint raised. Such action could include the immediate removal of NEC staff and or the recount of ballots. A response to each complaint was to be issued prior to the final announcement of results.

In total 73 complaints were received and processed immediately after the parliamentary and presidential elections:

- 24 complaints requested recounts; recounts were ordered where credible evidence of irregularities was found. As a result of this undertaking 4 polling stations were excluded from the count;
- 27 complaints made criminal allegations; in each case the complainant was urged to contact the police;
- 14 complaints were directed against NEC staff; each complaint was investigated and a number of NEC staff were removed from their posts;
- 7 other complaints were filed each of which was provided with a response.

Based on the success of the actions taken the NEC instituted the same system for the presidential run-off election. In that instance 10 complaints were received and addressed.

During the polling phase Sierra Leone experienced very low levels of violence or civil unrest. It is the belief of the Commission that this pattern can partly be attributed to the policy of engagement outlined above.

Formal Complaints Mechanisms

The formal complaints mechanism centred on the establishment of electoral courts within the High Court system in Sierra Leone. The role of the courts to adjudicate and be seen to adjudicate on matters relating to the election was a key component in the democratic development of Sierra Leone. Historically, laws had been passed which allowed High Court oversight of disputed parliamentary election results, disputes relating to the presidential elections falling under the jurisdiction of the Supreme Court. However, these mechanisms had never been activated. The 2007 elections were seen as an opportunity to bring these structures to life, establishing a working precedent for the resolution of electoral disputes.

The adopted strategy consisted of the creation of two courts. The *Electoral Petitions Courts*, a civil court of “disputed election results” and the *Electoral Offences Court* which would address criminal actions arising throughout the electoral process. Both courts were to be established as divisions of the High Court.

Substantive legal reform was required for the Election Petitions Court. The *Rules of Court Committee*, formed under the auspices of the Chief Justice, redrafted the court rules with the aim of creating a structure which would provide for the efficient and speedy hearing of cases, streamlining existing processes and significantly reducing costs. This was in recognition of the immediacy of the electoral process, where access, clarity, and address were required to ensure societal stability. The newly formed *Election Petitions Rules* were subsequently presented to Parliament and passed into law in May 2007. The *Electoral Laws Act* was also amended to reflect the role of the court in future electoral processes.

The Electoral Offences Court was formed for the first time in the history of Sierra Leone as a dedicated arena through which electoral

offences could be prosecuted before judges versed in electoral laws. The courts sat for six months during which time all cases had to be resolved. Judges were identified and specifically appointed to the court. The courts were inaugurated in July 2007. In total, six courts were established. The courts operated concurrently, with judges hearing both criminal and civil submissions.

Beside the High Court cases, Magistrates Courts heard many cases relating to electoral crimes of a less serious nature. Research conducted on the activities of the both the Magistrates and High Courts indicate that they complied with the requirements of due process and the courts did not indicate any political preference.

Technical and Legal Impact

Immediately after the elections UNDP undertook a lessons learned exercise. In examining the role of the courts, the following findings were presented: "The creation of these two courts of law (under the Electoral Laws Act 2002) dedicated to resolving electoral issues was a crucial measure to ensure not only a credible outcome for the 2007 elections, but also the full legitimacy of the elected bodies. While, normally, a great emphasis in the administration of an election is given to the various electoral preparations, voting procedures, and operations, the field of electoral dispute resolution does not often enjoy the same levels of attention and analysis. Indeed, the risks connected to an ineffective resolution of electoral complaints should never be underestimated, since a technically sound electoral process could be seriously compromised by electoral disputes that are not properly and swiftly addressed."¹

1 "Lessons Learned from the 2007 Presidential and Parliamentary Elections in Sierra Leone", Post-Election Report, November 2007, p. 13.

The Electoral Courts were necessary for the credibility of the electoral process and for building people's confidence in the electoral process. The symbolic impact of such courts could not be understated since they influenced the perception of the whole electoral process. In addition, it should be highlighted that the cases were handled in a timely and appropriate manner in compliance with due process. Technically and legally, the Electoral Courts fulfilled the expectations for building the democratic process in Sierra Leone.

Conclusion

The role of both informal and formal dispute settlement mechanisms was critical for the success of the electoral process in Sierra Leone. People were presented with systems whereby grievances both minor and substantial could be presented and could be swiftly and impartially addressed. The NEC gained a reputation for attention to detail, accountability, and transparency, vital attributes for any post-conflict electoral management entity. Political parties, while often presenting demands which were hostile to the NEC, were nonetheless respectful of the Commission and accepted that while agreement was at times not forthcoming their concerns were heard and actions were clearly explained. The Courts, while generally under-utilised, were the first step in the establishment of a valuable national institution. They are being reconvened for the up-coming local government election.

Discussion

The discussion on the electoral complaints and appeals process covered numerous, in some cases quite specific, questions such as:

- how long deadlines for lodging complaints should be;
- whether the number of witnesses heard in such cases should be limited in order to save time;
- how to address the unpredictability of the number of complaints and appeals and how to guarantee scalability of structures;
- under what circumstances complaints should have a suspensive effect;
- whether reports by locals and international observers should be admitted as evidence in electoral appeal cases;
- to what degree the public or NGOs should have access to information about pending cases;
- how to appeal against the findings of an electoral complaints commission; and
- what possible role traditional justice mechanisms could play in settling electoral complaints.

The answers to these and a large number of other technical questions can only be found if three essential requirements for complaints and appeals processes are taken into consideration: *speed*, *accessibility*, and *transparency*. One participant stated that as long as these conditions were met, it did not matter whether the body hearing the cases was permanent or temporary, formal or informal, or whether it was an existing law court, a subcommittee of the national election

commission, or an independent organization. And given enough time and resources and an appropriate procedural framework, different types of agencies could fulfil these requirements.

Speed

Speed is of the essence in the work of a complaints and appeals commission as final election results cannot be certified until at least those appeals that could seriously affect the outcome of the election have been dealt with. The longer such a period of uncertainty lasts, the greater the danger that rumour and disinformation will lead to unrest or even violence. In addition, the agency responsible will certainly be exposed to enormous pressure to conclude the appeals process and allow the certification by the international community and those local political parties that seem to be winning.

To allow for an efficient but not rushed processing of cases that safeguards the integrity of the election result, a number of suggestions were made:

- institute short deadlines for lodging appeals;
- do not hold open sessions of complaints and appeals commissions; rather conduct all business in writing;
- limit the number of witnesses and evidence to the minimum necessary; and
- either set up a permanent specialized body, or keep track of and re-employ experienced personnel in order to create institutional memory.

Accessibility

Clearly, the best thought-out complaints and appeals process is worthless if the electorate is not aware that it exists or how it works or is unable to file complaints for practical reasons. One participant mentioned that his home country had formerly only allowed appeals that were lodged in person at the Supreme Court building within two days of the election. Yet from large portions of the country it was impossible to reach the capital within that time.

Among the measures discussed to guarantee accessibility were:

- the inclusion of the appeals process in all public and private voter education efforts;
- the dissemination of information on electoral appeals in all local languages and in as many different media as possible, including in the polling station on election day;
- the act of lodging an appeal must be as simple as possible, for example by using a pre-printed form that is widely available; wide availability and ease of use also allow for short deadlines; and
- the admissibility of anonymous complaints and appeals.

Transparency

Several participants remarked that all statements made in earlier panels about the need for electoral management bodies to engage in an open and frank dialogue with the public also held true for complaints and appeals commissions. Just as transparency before the elections leads to fewer complaints afterwards, transparency in dealing with those leads to a higher level of acceptance of the final election results. Elections in post-conflict countries are plagued by irregularities which are not malicious attempts at fraud but rather

minor mistakes or delays caused by rotten infrastructure and insufficient training. Yet if the resulting complaints are handled in secrecy, public trust can be seriously undermined.

Transparency of the complaints and appeals process can be established through, among others:

- creating awareness of the importance of transparency;
- developing a public information/media policy;
- allowing access to the appeals process by election observers and NGOs; and
- publishing results as soon as possible, including on the internet.

However there is one area where secrecy must be maintained: the identity of complainants cannot be made public. To illustrate this point, a number of participants recounted instances where complainants and their families were threatened or harassed in order to make them withdraw their appeal.

V. Confidence Building Measures and Dispute Resolution

Aldo Ajello

former EU Special Representative for the Great Lakes Region

Within a mediation process in a post-conflict context, I think it is useful to distinguish two phases: first, the negotiation phase of a peace agreement, followed by the implementation phase.

The Negotiation Phase

The successful conclusion of a peace process is in some cases threatened by the two parties with assistance by the facilitator or mediator. There have been cases where a mediator pushed for a speedy process and an early signature of the peace agreement. This necessarily means that controversial issues which are inherent to peace processes and are time-consuming to resolve are transferred to the implementation phase. The advantage for the facilitator is that he then receives credit for a rapid conclusion of the negotiations. The disadvantage for the peace process as a whole consists of numbers of unresolved issues that make the implementation of the signed agreement very difficult. My own experience in Mozambique, on the other hand, has shown that a comprehensive agreement, signed after comprehensive discussions which at least addresses, if not solves, the major problems, provides a solid base for implementation by national and international actors in a relatively short time.

It is also crucial that the time frame of the peace process must be realistic. In the peace agreement of Mozambique it was decided that the UN should deploy a peacekeeping operation to the country within six weeks. Many participants of the negotiations acknowledged that

the UN agreed to this totally unrealistic proposition in order to speed up the signature of the parties to the peace agreement. This unfortunate decision seriously damaged the credibility of the UN, as it took seven months to deploy the first blue helmets to Mozambique.

The role that the UN or regional organizations should have in a peace process is highly controversial: should it be a mere observer or facilitator, or should it be more active? Personally, I am convinced that the international organization in question should firmly be placed in the “driver’s seat”. In Mozambique, for example, the UN was providing the chair of all the important commissions. This gave the UN officials the possibility to use the agenda-setting power of the chairperson to advance the peace process. Also, it made possible the tactic of “naming and shaming”, which is the denouncing of non-cooperative commission members to the public. In contrast, when the international organizations is in the “back seat”, there is a risk that it is blamed for everything that goes wrong but has actually no power to influence the course of events.

Thought must also be given to the overall composition of the implementing commissions. In Mozambique all commissions were composed as follows: the UN was in the chair and the two conflict parties were joined by representatives of the international community. The *Supervisory and Monitoring Commission* – which was the motor of the entire peace process – included representatives from Germany, Italy, Portugal, the UK, and the Organization for African Unity. The two conflict parties thus had to discuss all issues in the presence of the international community which served as a witness and at the same time guarantor of the agreements that were reached. The size and heterogeneity of the commission created complexity, but it also implied that all actors had to cooperate on the matter.

In contrast, the *Comité International d'Accompagnement de la Transition* (CIAT) in the Democratic Republic of the Congo was exclusively composed of international representatives and there was no direct line of communication between the CIAT and the Congolese stakeholders affected by its decisions. This resulted in a number of misunderstandings and conflicts between the conflict parties and the international actors.

The Implementation Phase

It is important to realize that in the implementation phase, the parties to the conflict move from a situation of balance to a situation of imbalance. A form of balance between the former belligerents existed during the negotiation phase for the simple reason that their very participation attested that they did not obtain a military victory in the conflict. But once the peace agreement is signed and the rebel representatives move from the “bush” to the capital in order to take their seats in the various commissions, they typically face a huge disadvantage vis-à-vis the government they were trying to topple who are used to the exercise of political and administrative power and entrenched in key positions. Therefore, one of the first steps the international community needs to undertake is to build confidence and capacity among the weaker side in a peace process. This, however, is likely to lead to suspicions and accusations of partisanship by the other side.

Unless the former rebel groups feel that their vital interests are protected they will not begin the DDR process and the transformation of an armed group into an unarmed political organization. Until then, armed militia groups can easily act as spoilers and endanger the peace process. Financial support to these actors by the international community is therefore crucial but not sufficient, logistical assistance to

build up political structures needs to be given as well to secure fair electoral process.

Although the UN or other external actors are hopefully in a position of influence, they must understand that the peace process must move at its own pace and that patience is vital for success. In Mozambique, it became clear that the representatives of the former rebel movement *Resistência Nacional Moçambicana* (RENAMO) were too politically inexperienced to handle discussions and negotiations with the government. A training program secretly organized by the RENAMO leader to enhance their performance led to a delay of several weeks and was denounced by the government as an obstruction to the implementation of the peace agreement. However, the UN realized that this training program was a necessary step to move the peace process forward and did not follow the government in its denunciation. Equally important as patience, however, is vigilance and the ability by the international community to detect when one or both sides are simply playing for time or trying to obstruct progress.

International representatives must also be careful not to encourage a fragmentation in the leadership of the parties. Particularly when one side is obstructive, there is a strong temptation to play one faction within this group – and these factions always exist – against each other to achieve progress. Although attractive in the short term, this is usually not a promising strategy for the long term. Experience shows that having a limited number of counterparts that are reliably able to deliver their respective parties is an important condition for success. Nothing is worse than reaching an agreement on a complicated issue after weeks of negotiations with the parties' representatives only to find out that the result is disavowed by their organizations.

Vincent Tohbi

Country Director DR Congo, Electoral Institute of Southern Africa (EISA)

After more than a decade of political crises and armed conflict, the DRC stakeholders signed a peace agreement in 2002 in Sun City, South Africa. One of the key points of this Agreement was the holding of general elections at the end of the transition period. During this period, a transitional government and interim institutions consisting of all the major parties and the former belligerents would rule the nation. However, both local and international actors anticipated that a mismanagement of this electoral process could have far-reaching consequences for the peace process, including, in the worst-case scenario, a resumption of large-scale violence. Several potential elements of crisis were identified:

- a fragile peace process; there were serious doubts that the three main belligerent groups – Joseph Kabila’s *Parti du Peuple pour la Reconstruction et la Démocratie* (PPRD), Jean-Pierre Bemba’s *Mouvement pour la Libération du Congo* (MLC), and Azarias Ruberwa’s *Rassemblement Congolais pour la Démocratie* (RCD) – participating in the transitional government were fully committed to a peaceful solution.
- weakness of the state; there was no functioning national administration, and the entire security sector was a shambles, lacking even the most basic requirements with regards to training, equipment, and financing.
- social breakdown; the government was unable to provide the population’s needs in health care, education, and other social services; the formal economy had collapsed leading to massive unemployment; in addition, there were tensions between different ethnic groups, particularly in the east of the country.

- lack of functioning political system; over 400 newly-established political parties with unclear political agendas vied for the vote of the population.
- lack of electoral legislation; although the 2002 Peace Agreement made some legal provisions for the elections, until February 2006, the DRC had no constitution; other crucial electoral legislation, such as laws on nationality, on political parties, and on an independent electoral commission, also had to be created from scratch.

As a consequence, several mechanisms were put in place to anticipate or to solve election-related disputes. Four approaches were developed: a legislative approach, a technical approach, a diplomatic approach, and the EISA model.

Legislative Approach

Given the critical political context, there was a need to adopt a very inclusive approach by bringing all the political parties and civil society organizations not represented in the Transitional Parliament into the processes. It had to be checked that the election-related legislation which was to be adopted was not discriminatory towards certain groups or candidates.

Technical Approach

The *Commission Electorale Indépendante* (CEI) was largely composed of representatives of political parties that signed the Peace Agreement. Almost all of its members were not familiar with the management of elections. The technical approach, thus, consisted essentially in empowering and equipping the CEI with the skills to deliver free and fair elections and minimize the risk of conflicts. Training of the CEI staff, the logistical support of the UN (including 100 airplanes, 50 helicopters, and thousands of cars), and financial support were

essential. The direct cost of the election was US\$ 400 million and an estimated additional US\$ 2 billion for peacekeeping forces and bilateral assistance. About 1,000 international experts from the UN, international institutions, and NGOs were involved.

Diplomatic Approach

A strong role was played by the international community. Its mandate was defined by the 2002 Peace Agreement. The *Comité International d'Accompagnement de la Transition* (CIAT) was a consultative group composed of the 14 countries that had sponsored the signing of the Peace Agreement. Other international structures and initiatives with specific missions were also put in place, for example the Steering Committee and the Technical Committee. All these structures were under the coordination of the UN. Moreover, there was a follow-up of bilateral contacts between the DRC and other countries and multilateral actors such as the *Southern African Development Community* (SADC), *Commission de la Communauté Économique et Monétaire de l'Afrique Centrale* (CEMAC), and the *African Union* (AU). A Wisdom Committee comprised of African leaders and headed by former President of Mozambique, Joaquim Chissano, was tasked by the UN to play the role of a mediator between the DRC political stakeholders.

The EISA Model

The EISA model is based on the assumption that all conflict resolution mechanism must integrate the population as they are, most of the time, the main actors and victims of conflict. In a country where the judiciary does not have the necessary means and does not enjoy the confidence of all actors, the judiciary cannot deal with election-related disputes.

One approach of the EISA model was the establishment of *Election-related Conflict Management Panels* in all constituencies. The composition of these panels reflected the composition of a given community: traditional chiefs, religious leaders, youth and women's associations and other NGOs, trade unions, and political parties. Training, equipment, and transportation was provided for 3,200 panel members nationwide who were deployed to the constituencies. Most important was their presence in and around the registration and voting centers as well as the streets, markets, and other public places.

The panels had to deal with various types of conflicts. The issue of nationality was very prominent in areas bordering Rwanda and Angola. In all parts of the country the panels had to clarify misinterpretations of the electoral legislation and deal with political intimidation. Fraud was another issue as well as strikes by electoral staff and logistical problems.

The end of elections doesn't mean the end of the social and political crises. Given the success of their work during the elections, EISA-trained mediators are now reorganizing themselves to concentrate on other social conflicts such as tensions between ethnic communities or disputes between local inhabitants and industrial corporations damaging the environment.

Kwado Afari-Gyan

Chairman, National Election Commission, Ghana

The occurrence of violent conflicts before and in the aftermath of polls indicates that many people lack confidence and trust in the electoral system. Therefore, the Electoral Commission in Ghana has developed and conducted various mechanisms of conflict prevention and confidence building in the electoral process.

Mechanisms of Conflict Prevention and Confidence Building

Electoral commissions and political parties are characterized by a symbiotic relationship. Given the fact that political parties are mostly quite suspicious towards the work, procedures, and structures of the electoral commissions, it is very important that confidence building measures address this crucial relationship between the electoral body and the political parties.

The following five mechanisms of conflict prevention through confidence building have successfully been established in Ghana:

- *integrity* has been promoted between the citizens and the electoral system to ensure that all citizens trust the elections to be fair, lawful, and accurate;
- *formalizing dialogue*; a mechanism of standardized dialogue has been built between the political parties and the electoral body that gives both of them the opportunity to raise, discuss, and agree upon diverse issues in a common political sphere;
- *voter education*; as citizens' distrust and suspicion in elections mainly emanate from a lack of understanding and knowledge about the electoral commission, voters have been educated about the function, rules and regulations, procedures and structures of the electoral body;

- *unity of the electoral commission*; members of the electoral commission are instructed to develop a political consensus so that they can speak with one voice on important issues and avoid contradictory statements;
- *participation of political parties*; political parties are given direct possibilities of participation at all the important stages of the electoral process, from voter registration, to polling, and to vote counting.

Conclusion

Developing and conducting mechanisms of conflict prevention through confidence building are key in emerging democratic states. However, experiences from Ghana, Liberia, and Guyana have revealed that this is a very difficult, slow, and tedious process. Even though conflict and distrust cannot entirely be eliminated – particularly in immediate post-conflict environments – the established confidence building mechanisms in Ghana do offer a promising example of conflict prevention management.

Discussion

The discussion concentrated on two issues: *Firstly*, the role of the international community in confidence building and dispute resolution, and *secondly*, the need for a participatory approach to electoral processes in post-conflict societies.

The Role of the International Community – The Need for a Clear Definition and Unity

In the field of confidence building and dispute resolution, international actors – whether a UN peace operation, a regional organization, or individual interested states – can make a decisive contribution to the success of post-conflict elections. In fact, several participants felt that out of all possible functions for international actors, a robust ongoing mediation role is among the most important to help maintain the trust of the parties in the electoral process. In order to fulfil this role, however, two conditions must be met. *Firstly*, the function of the international actors must be clearly defined, either in the underlying peace agreement or in some other formal understanding between all local actors involved. *Secondly*, the international actors must speak with one voice, otherwise they can easily be played off against each other.

However, it is increasingly difficult to create such a consensus. As a result, there has been a noticeable loss of credibility by the international community in some post-conflict countries and a weakening of its effectiveness as a mediator in election-related disputes. Participants remarked that while competing agendas were always present, an increasing politicization of peacekeeping and the entry of new actors with agendas of their own have complicated matters further. The

situation in Sudan was named as a prime example of this worrying trend.

A Participatory Approach

Even more important than providing for a dispute resolution mechanism, however, is the minimization of the mutual distrust that causes the disputes. Key is a participatory approach to the electoral process aiming at the inclusion of stakeholders such as religious organizations, NGOs specialized in voter education and human rights, trade unions, women's and youth organizations, and academic and cultural associations. As participants stressed, this does not mean that every single civil society organization must be a member of every single decision-making body. Equally, it is often not practical to insist on solving all upcoming controversies by total consensus among all stakeholders. But it is vital to create a space where the relevant parties can interact in a way that makes them feel a part of the process. As it takes considerable time to overcome the distrust characteristic of post-conflict societies, it is crucial to begin this broad engagement and consultation as early as possible.

Two examples were given to illustrate possible applications of this approach. In the DRC, a "virtual expert committee" was created to both broaden the knowledge of and improve the first draft of the electoral law. Numerous experts were given the draft and asked to comment on it. Not only was the outcome of this consultation very valuable, in addition the costs were minimal. Other participants suggested testing voter education materials and ballot paper designs on groups of both urban and rural voters. This process would result in more user-friendly products and at the same time promote confidence in the entire election process.

VI. Peace Agreements, Electoral Law, and Timing of Elections

J. Ray Kennedy

Chief Electoral Affairs Officer, UN Mission in Sudan (UNMIS)

From my experience with organizing elections in post-conflict societies such as in Sudan, Afghanistan, Liberia, East Timor, and other countries with organizing elections in post-conflict societies, I would like to offer some lessons learned on the need for more advice on questions of electoral processes for all actors, on setting and changing election dates, on sequencing, on the issue of flexibility vs. certainty in the regulatory framework, on refugee and IDP voting, and on delineating the role of the international community.¹

Electoral Advice

As the title of this panel makes clear, peace agreements are a fundamentally important part of the electoral process, and vice versa. The contents of individual peace agreements of course vary in the specificity of their provisions concerning post-conflict elections, but their content can potentially predetermine the success or failure of future polls. Unfortunately, I believe that the parties negotiating such agreements – as well as international or local mediators – do not receive enough advice on electoral matters. As a consequence, peace agreements sometimes contain unrealistic electoral provisions. In three areas in particular, negotiators could profit immensely from expert electoral advice:

¹ These remarks were made in the speaker's personal capacity and do not necessarily reflect the views of the UN Mission in Sudan, the United Nations, or any of its member states.

- on the feasibility of electoral dates. There are numerous examples of serious problems caused by unrealistic timetables that were set without the early and consistent input of professional election administrators;
- on the parameters of the Electoral Management Body (EMB). What is practicable? What is politically acceptable? These questions need to be asked early in the process, as reorganizing an EMB does not add to the confidence of the electorate in this body.
- on the workability of the various electoral systems.

Lawmakers in post-conflict parliaments working on reforming electoral laws should also receive more information on the possible consequences of their legislative actions.

Electoral Dates

I have two lessons to offer on electoral dates: *Firstly*, as already mentioned, the timetable must be realistic, which means in practice it must not be too tight. Post-conflict elections require a major legislative and organizational effort with many inexperienced actors involved. Capacity building for local staff and voter education in particular, takes time but are of fundamental importance.

Secondly, dates in an electoral process should not be absolute, but rather should be set relative to each other. To give a concrete example, it would be good practice to stipulate that the election will be held one year after the passage of the election law. If fixed electoral dates are set, then a mechanism has to be established for adjusting them. One must also point out, however, that electoral dates should be changed as little as possible. Frequent changes give the impression of manipulation and lead to a loss of credibility and thus of legitimacy of the election results process. In addition, they waste

enormous amounts of resources, as plans have to be re-worked each time.

Sequencing of Elections

To normalize the political process after the end of armed conflict, a number of different elections need to be held, depending on the constitutional framework: typically there are presidential, parliamentary, and local, in some cases also provincial and gubernatorial elections. The question of how to sequence these elections has stimulated a long-running debate among electoral experts. The first decision that needs to be taken – whether to hold all elections simultaneously or separately – immediately leads to a dilemma. On the one hand, experience shows that holding several elections at once can be confusing to voters. On the other hand, holding separate elections can lead to voter fatigue and is also more costly. A thorough understanding of local conditions is necessary in order to determine how to strike the right balance.

If local conditions argue for holding separate elections, the question then arises in which order they should be organized. Again we are faced with a dilemma. National elections, particularly presidential ones, have a much higher profile – particularly internationally – than local polls. They are thus more likely to be subject to outside observation and are more likely to generate controversy up to a renewed outbreak of violence if they are perceived to be flawed. All these points would call for holding presidential elections later in order to be well prepared. However, national elections are normally much easier to organize than local elections. Local elections require the registration of a much greater number of candidates in a greater number of and more remote locations, more different styles of ballot papers to be designed, printed, and distributed, and more campaigns to be monitored. I feel it often makes good sense to use the “easy” round of

national elections to practice for the “difficult” local polls, which are in fact no less important for the everyday lives of the population.

Flexibility vs. Certainty

The correct balance between flexibility and certainty within the electoral framework is very important, yet very difficult to achieve. Generally, I feel that only the most basic and the most controversial issues should be directly spelled out in the electoral law in order to get the explicit buy-in of all parties well in advance of the elections. On the host of other issues, however, the EMB should be given enough flexibility to adjust to a changing situation on the ground. It must be stressed, however, that an EMB can only take advantage of such leeway if it is generally seen as competent and impartial.

The degree of flexibility will also have an effect on the timing of elections: a comprehensive election law will take a long time to negotiate, yet there will only be a short time necessary between the passage of that law and the election day. Giving greater flexibility to the EMB, on the other hand, means it will have to spend more time on developing its own regulatory framework after the election law has been passed. Because one thing is clear from my experience: it is vital that some set of regulations exists before controversial issues – such as tie votes – arise. Making up rules “on the go” damages the credibility of the entire process.

Whatever the individual balance of certainty and flexibility may be, in my experience it is very important that the basic electoral framework should be changed as little as possible for a considerable amount of time – about one year would be ideal – before the election date. This period is necessary to give the political parties a chance to develop and adjust their strategies to the legal framework requirements, to allow the EMB to design processes and materials, and to train local

election officials on all levels. It is now widely recognized that the training of this group is one of the key determinants of success or failure of elections.

Refugee and IDP Voting

While it is certainly desirable to enable refugees and IDPs to vote, one must clearly understand that doing so will make planning and implementing elections more time-consuming and also more costly. In fact, organizing out-of-country voting by refugees will often require the outsourcing of parts of the election process to specialist organizations abroad. The timing of elections will then also have to take into account the return time of refugee votes sent by mail. For IDPs, a special voter registration system must be set up that allows them to vote somewhere other than at the place where they were registered. The danger in this is that those IDPs who cannot relocate between their registration and election day may end up being disenfranchised.

The Role of the International Community

The international community can play a number of different roles in post-conflict elections: offering expert advice, technical support, capacity building for local staff, or funding, observing the elections, mediating in case of disagreements, providing a secure environment, or even taking full responsibility for implementing the elections. Whatever the role might be in a specific case, it is vital that it is spelled out in detail and fully understood and agreed to by all parties at the beginning of the process. In my opinion, out of all possible functions for international actors, a robust ongoing mediation role is among the most important in post-conflict electoral processes to help maintain the trust of the parties in the electoral process.

Conclusion

In the final analysis, holding elections is a matter of translating words on paper into concrete actions. This can prove surprisingly difficult once the battlefield is a mere memory and everyone's focus has shifted to the task of governing and issues such as sharing wealth and power, which themselves can provide more than enough fuel to reignite latent conflicts. As has been said numerous times already during this Seminar, political will is crucial to the resolution of violent conflict.

Discussion

Dissemination of the Electoral Law

Many post-conflict elections share a common feature: good electoral laws are passed but then not disseminated to the political parties, civil society organizations, and the electorate in an appropriate manner. Partly, this is because the legal texts need to be translated into the often numerous local languages. In many post-conflict countries non-existing infrastructure also makes dissemination a major logistical problem. The DRC was named as a prime example. It was also pointed out, however, that there are creative alternatives to dissemination of the text of the electoral law itself. In the predominantly catholic East Timor in 2001, for instance, the section on electoral offences was translated into a one-page “Ten Commandments” info-sheet, making this passage of the electoral law easily accessible to the electorate.

Electoral Expenses

The explosion of expenses creates difficulties for many parties in post-conflict elections. In consequence, participants raised the question whether the introduction of spending ceilings for parties might not be a necessary step. Others argued that although ceilings might be an appropriate end state, they were too ambitious given the conditions on the ground. Financial transactions are notoriously difficult to monitor and enforcement of such rules would add another layer of complexity to the electoral process. The requirement of financial disclosure, however, could be introduced as a first step towards more rigorous regulations on spending. It was also mentioned that laws on spending limits have existed for years in several francophone coun-

tries in West Africa. As their effectiveness is not immediately apparent, further research would be necessary to evaluate the possible benefits and downsides of this approach.

Timing of Institution Building

A clear lesson learned from the current situation in Sudan is that decoupling the establishment of the National Elections Commission from the passage of the National Elections Law would have avoided many difficulties. Crucial time could have been gained for the technical and administrative preparation of the elections and referenda and for capacity building. Members of an electoral commission do not necessarily need to know the full details of the electoral system in order to make progress in many of other areas.

VII. Local Ownership and Elections

Martina Duettmann

Elections Training Adviser, OSCE Mission in Kosovo

Since 1999, the OSCE has had sole responsibility for the implementation of three elections in Kosovo: The Municipal Elections in 2000, the Assembly Elections in 2001, and the Municipal Elections in 2002. In addition, the OSCE executed two elections in cooperation with the *Central Election Commission (CEC) Secretariat*: the Assembly Elections in 2004 and the Assembly, Municipal, and Mayoral Elections in 2007.

According to the verdict of the *Council of Europe Election Observation Mission (CEEOM)*, the 2007 elections were “in line with international standards for elections”, a very satisfactory result from the viewpoint of the OSCE. However, the same report of the Council of Europe also includes the following paragraph: “Formally, these elections are the responsibility of local institutions, primarily the CEC. However, due to the short notice, it became imperative that the international community, through the OSCE, take much more responsibility for the process than was foreseen. Notwithstanding the fact that local institutions did not plan for entirely locally run elections, it seems that the international community has not met its obligation to contribute to capacity building in the field of elections.”

This thinly veiled criticism could be seen as surprising in light of the fact that the OSCE had been entirely or partially in charge of conducting five elections in Kosovo and of training local personnel and sponsoring of local electoral management bodies in the time between electoral events. I would, therefore, like to use this critical paragraph as an occasion to look in more detail at the causes of the short-

comings of the 2007 elections in Kosovo and then draw conclusions and develop recommendations for international election missions in general.

Kosovo Elections in 2000 and 2001

The Municipal and Assembly Elections in Kosovo in 2000 and 2001 were conducted in two distinct phases. Voter registration was implemented by a joint task force of the UN and the OSCE. International staff held all management and supervisory functions during this operation. The elections themselves were implemented by the OSCE Department of Elections. Again, all management and supervisory functions were held by international staff.

From my personal experience of these two elections, I would like to stress the following two shortcomings: *Firstly*, the personal data of local staff that worked for several months preparing the election and gaining valuable and significant election experience was never collected nor has their work been evaluated. As a result of this oversight, former local employees especially in the field could not be identified and contacted for later election and employees with a bad work performance were hired again.

Secondly, IT equipment for the voter registration was supplied partly by the UN and partly by the OSCE. This setup became more and more problematic over time as it became clear that data sets collected with different technological standards could not simply be merged. To this day OSCE data have not been fully integrated with the UN-operated civil registry, which serves as the base for the voter list in every election in Kosovo. Both issues show the possible impact if there is no continuity in staff and equipment during and in between election cycles.

The Reforms for the 2004 Elections

The elections of 2004 were held under a reformed electoral management structure following the foundation of the *Central Election Commission Secretariat* (CECS) in 2003. The following list illustrates how the OSCE and the CEC Secretariat split their tasks and responsibilities for the 2004 elections.

The OSCE was in charge of:

- the preparation of the voters list;
- the implementation of out-of-country voting;
- political party registration;
- the count and results centre;
- the anti-fraud unit.

The CECS's responsibilities were:

- field coordination planning;
- training coordination;
- political entity certification;
- the election observer program;
- public information;
- the production of ballots and other materials.

In reality, in all these fields – apart from the local observer program – the CEC Secretariat was heavily supported by, and in specific tasks actually supplanted by, the OSCE.

International Supervisors and Trainers between 2000 and 2007

The OSCE used *International Polling Stations Supervisors* (IPSS) during the first three elections (2000–2002) in Kosovo. These supervisors had the ultimate responsibility in the polling stations, above all local officials. While this arrangement helped to ensure that the elections

were conducted in accordance with international standards, it also had severe drawbacks with regard to local ownership. In 2004, for example, a full recount of all polling station results had to be held due to discrepancies in the majority of polling station result forms. It soon became clear that many local polling station chairpersons simply did not fully understand the importance of this form and the impact of ignoring it or filling it out incorrectly. This lack of understanding was clearly caused in the dominant role of international personnel during the three earlier elections, as the chairpersons had never before been held fully responsible for discrepancies in the result form during the “intake” of sensitive polling material.

The number of OSCE international and national trainers remained roughly the same between the 2000 and 2002 elections. But in 2004 and 2007, the number of both international and national OSCE trainers decreased significantly: International trainers from over 40 to two, national ones from over 90 to ten. Instead, Kosovo teachers were beginning to be trained as trainers for local polling station staff in the field. This change of strategy was recommended by the OSCE in order to establish sustainable and affordable training structures. It worked fairly well in the 2004 elections, but since then the CECS skipped this model and decided to hire 140 new short-term trainers mainly without any significant training and election experience. Therefore, any new upcoming elections will see the CEC Secretariat training activities in the field starting from scratch.

The situation of the in-house CEC Secretariat training staff has been similar. Not only were all three trainers totally inexperienced in the subject of training and training concepts as such, not to mention the special requirements for a trainer in post-conflict elections. Two of them, including the senior trainer, left their job soon after being hired. In this way, what little experience the OSCE had built up at the

strategically most important CEC Secretariat level in 2004 was lost again.

Moreover, it must be mentioned that none of the experienced local staff of the entire OSCE Electoral Division was willing to leave the international organization and take a job at CECS. The difference in salary is clearly one of the main reasons. As a consequence, the transfer of knowledge and experience which are the vital components of a successful election preparation process has never fully happened in Kosovo during a period of seven years.

Conclusion

After looking at my specific experiences from Kosovo, allow me to draw some general conclusions and follow with some recommendations for international election assistance in post-conflict countries:

- the international mission must form an idea of what the final electoral system and electoral administration should look like as soon as possible;
- the establishment of an efficient national electoral administration needs continuity – in budget, equipment, and, crucially, personnel; the basis for sustainability is capacity building; transfer of knowledge, therefore, needs to happen continuously in election and non-election years;
- the key qualification for an international advisor – besides election expertise – is an ability to mentor local staff to enable them to attain the internationally recognized standards of election knowledge and technique;
- without an adequate salary, no continuity of local personnel can be achieved; international election missions should avoid right

from the beginning to employ local election staff on a continuous base (with a very high salary by local standard), but instead heavily support a national election management body and its personnel.

Vincent Tohbi

Country Director DR Congo, Electoral Institute of Southern Africa (EISA)

The Elections in the DRC – International and National Contributions

International assistance in the DRC consisted of the largest current UN peacekeeping mission, MONUC, with over 18,000 military, police, and civilian staff. The annual costs for MONUC amount to ca. US\$ one billion. The direct costs for the elections constituted about US\$ 500 million. In addition, the elections were supported by the following assistance:

- the UN spent US\$ 50 million for logistics and supported the elections with more than 100 planes and helicopters and over 1,000 cars, motorcycles, and boats;
- the amount of bilateral financial and logistical support to the elections is estimated to be around another US\$ 100 million;
- more than 2,000 international observers were deployed for the different polls and approximately 70 million ballot papers were printed.

It is estimated that the accumulated costs of organizing the elections in the DRC were roughly US\$ two billion. The DRC's contribution to the process was understandably smaller. One of the preconditions for the international support was that the DRC government had to contribute to the costs of the elections, yet it only financed less than 10 percent of the total. This situation was caused by the desperate economic and financial situation. The country was on the edge of bankruptcy and the needed infrastructure was either not-existent or ruined by years of conflict. Then around 400 political parties were included in the prepa-

ration of the elections with 32 candidates for presidential elections and 6,000 to 8,000 candidates for the legislative elections and provincial parliaments. These conditions made it very difficult for the international community to provide all the intended assistance for the elections.

Capacity Building and Local Ownership during the Electoral Process

A new and therefore inexperienced Electoral Commission was created as a result of the Sun City Peace Agreement. Thousands of people had to be recruited and trained to work to make the elections possible: more than 200,000 employees ultimately worked for the voter registration centres and polling stations. This initiative has been a very important for capacity building. The intensive training of the newly recruited staff guaranteed a transfer of electoral abilities and skills. A percentage of these persons was retained and will immediately be available to organize the local elections next year. There is also a database with qualified personnel that can be recruited without the need of further training. The success of these measures is shown by the fact that a Congolese team was invited as trainers to provide assistance for the elections in Togo.

When it comes to local ownership of the process it has to be underlined that civil society organization were included during the whole process, implementing original projects for civic and voter education. Networks were established with religious groups and NGOs in order to improve the outreach of the various projects. Civil society organizations set up alternative mechanisms for electoral conflict management known as "Electoral Conflict Management Panels".

There has also been an extensive capacity building for the national observation of the elections. Civil society organizations established

numerous networks for election observation covering the entire giant country. Over 10,000 national observers participated in each election whereas the total number of international observers was approximately 2,000. 324 of them were from the EU, a number never before reached in any African election, illustrating the exceptional support of the international community and specifically Europe to the electoral process. It has been repeatedly reported that the cooperation and interaction between local and international observers was very good.

Lessons Learned

International electoral assistance has to be encouraged. At the same time, national governments must shoulder their responsibilities. The financial contributions should be adequate in order to show that they are committed to insure democratic changes in the country. The budgets allocated to elections should have the same priority as budgets for other programs of national importance. International assistance must carry out capacity building and transfer of knowledge as much as local capacities allow. Furthermore, the evaluation of international assistance must take into account the number of electoral officers trained at the national level.

The goal must be to gradually move from a stage where the international community is substituting the local authorities to a stage where national organizations conduct their own election with a measure of external assistance. This process of building up local ownership can be continued by sensitizing civil society, by conducting more training programs, and by supporting political parties. Those capacities are not only good for national processes, but also for regional and international contexts. One example is Zimbabwe, where international observers have been denied access. But local observers like the Zimbabwe Election Support Network (ZESN) were present at

the elections. This guarantees at least some degree of access and accountability and shows the importance of local capacity building.

Micheline Begin

Country Director DRC, International Foundation for Electoral Systems (IFES), 2003–2006

The Situation in 2003

The 2002 Global and Inclusive Agreement on Transition in the Democratic Republic of Congo under the supervision of the *Comité International d'Accompagnement de la Transition* (CIAT), paved the way to the progressive implementation of a democratic and constitutional system, creating hope for economic and social reconstruction, restoration of the territorial integrity, re-establishment of state authority across the nation as well as for free and transparent elections at all levels.

But in 2003, this huge country was still in very bad shape. Its economy was ruined. The structures left in place by Belgium at independence some 40 years before were obsolete or had practically disappeared after more than four decades of dictatorship. The road system was destroyed and communication infrastructure practically non-existent. But elections could not wait for reconstruction, and the lack of electoral knowledge was crucial. In that context, some of the main actors in the process took full ownership of the process, others took none and others did partially.

Zero Ownership by the Congolese Political Class

Though the role of political actors is crucial for the smooth operation of an electoral process, one must wonder if the Congolese political class understood the issues that were at stake. There were 273 registered political parties at the beginning of the process, several of them made up of former military movements.

During the whole process, most parties were busy trying to access positions within the transition institutions and in many cases acted with little faith that the elections would ever take place. Despite efforts made by the *Commission Electorale Indépendante* (Independent Electoral Commission – CEI) to articulate their participation through the *Political Parties Forum*, an information and exchange framework, the parties failed to:

- organize themselves and raise funds in order to show some presence outside their respective core strongholds;
- attract specific groups like women or the youth in the electoral competition (out of the 33 presidential candidates only four were women);
- inform their members and supporters about electoral procedures;
- properly train their representatives at the registering and polling stations;
- develop broad-based political programs.

As the political class of the DRC did not take ownership of the electoral process, individual independent candidates were quite attractive to the electorate. The results of the legislative elections, for example, indicate that 64 independent candidates were elected, obtaining 12.6 percent of the seats.

Lessons Learned

- No matter how difficult the issue of political parties, they should nevertheless receive all the professional support they need from the international community as one of the most important actors of such process.

Partial Ownership of the Process by the Electoral Management Body

While it needed visibility and action to establish its credibility, the newly appointed CEI was receiving no financial support from the government and the parliament was very slow in adopting the basic legal framework required to hold the elections. In this early context of political precariousness and lack of electoral expertise, very few international institutions had the flexibility to step in in order to help the EMB gain its credentials, despite the fact that such elections were of unquestionable interest for the international community. With time, strong measures were put in place to maintain the level of security essential for the preparation of the electoral process and to support all phases of this process. No less than twenty countries became involved, some of which were involved in many aspects.

The EU participated in several reconstruction projects and sent the EUFOR mission to secure the electoral process. South Africa printed and transported the ballot papers and provided technical expertise in the local result compilation centres. Specialized international organizations like the *Konrad Adenauer Foundation*, the *Electoral Institute for Southern Africa*, the *National Democratic Institute*, and the *International Foundation for Electoral Systems* were also deeply involved at various levels.

The UN mission and UN agencies such as UNDP supported the elections from the beginning to the end, lobbying for the creation of the electoral commission, for the elaboration of an electoral code and for the adoption of an electoral system. They provided the vast majority of the financial resources, provided training and technical assistance, contributed to voter education and made sure that every step would be completed according to universally recognized standards.

MONUC, under chapter VII of the SC Resolution 1493 of July 28, 2003, assisted the Congolese government on security issues by supporting the DRC armed forces. An *Electoral Safety Technical Group* (GTSE) partnered with the Congolese National Police Force and the MONUC Civil Police Force to help the Congolese guarantee the safety of the electoral process. MONUC Electoral Division provided capacity building, coordination (weekly meetings of the International Technical Committee), and international assistance.

The Congolese Government provided about ten percent of the total budget amounting to some US\$ 500 million. UNDP managed a Basket Fund which centralized the financial contributions of various donors to the electoral process through the *Project d'Appui au Processus Électoral en RDC* (APEC). APEC provided CEI with equipment, human resources, and advised the president of the CEI on issues relating to sensitisation and logistics. It recruited 236 electoral experts (including 133 international experts and 55 UN Volunteers) many of whom were dispatched to the field and to the technical cells of the CEI to ensure the implementation of the operational plan, thus contributing to capacity building of their national counterparts.

The question which remains to be answered is: What remains of all this assistance? As of today, are the electoral authorities able to organize the next elections with reduced foreign assistance? During the initial stages of implementation, the CEI performing better and better, a fair level of capacity building seemed to be emerging. Transfer of knowledge was successful in the fields of programming, planning, communications, and election management, mainly thanks to the integration of the UN experts. Due to considerations of national sovereignty, the international community did not get involved in the financial management per se, except for the payment of electoral agents.

At some point though, the pressure of time constraints was so strong that some international experts felt the need to take over the practical leadership in several fields, at the expense of capacity building considerations. At the end of the process, many CEI staff members criticized the fact that no assistance had been planned for the verification of candidacies, for the supervision of electoral training, for the follow-up of electoral disputes in the provinces, and for the return of electoral materials. Their main criticisms concerned the post-electoral period, for which practically no financial and technical assistance was provided. In fact, an independent evaluation prepared at the termination of the APEC project in April 2007 indicates that only a few months after the elections the electoral authorities were already in serious difficulties. Left without financial resources, not having the means to retrieve and store the valuable materials and equipments put at its disposal, and unable to pay the salaries of its electoral experts, it was unable to properly close the process – namely by archiving electoral documents – and to implement urgent projects such as updating the electoral register.

Lessons Learned

- The national Electoral Management Body must show a high level of openness to foreign assistance (this has been the case in the DRC) and the international community must take into account the criteria of cultural sensitivity in the recruitment of its experts.
- The international community should develop rapid funding mechanisms to counteract the lack of political will that often occurs at the beginning of electoral processes in post-conflict countries and to fill gaps that, for whatever reason, may have not been taken into account in official planning documents.

- When the international community fully assumes important and costly operations like MONUC did in the DRC, at the end of the process it should also provide assistance to ensure the ownership of future electoral processes by the national authorities. For example, it should help the electoral management body to develop other sustainable operational choices and to introduce more modest replacement solutions that are more adapted to the means and resources of the country.
- Special attention should be given to wrapping-up activities and continuity. The new national experts should be encouraged by further training and good working conditions so their expertise will remain available in their respective countries. When a new electoral management body is planned to replace the one that was appointed for a specific electoral process, the international community should make every effort to ensure that the recruitment process of the new electoral management body will not jeopardize the new assets.

Full Ownership by the Congolese Electorate

The CEI, civil society organizations and churches facilitated ownership of the electoral process by the Congolese population. The violent conflict had left some 3.5 million people killed and some 400,000 displaced, making an estimate of the true population of the DRC extremely difficult. Many of those who survived the conflict had lost their papers. This was the environment in which the Congolese population was called to elect its representatives, an environment also marked by a crucial lack of electoral tradition and culture.

Despite this situation (or maybe because of it?), the Congolese showed a great mobilization capacity. On July 30, 2006, close to 18 million voters went to 50,045 polling stations, representing 70.54

percent of the more than 25 million registered voters. The work done by the CEI – in coordination with Congolese NGOs and supported by international organizations – for increasing the involvement of the civil society in the process is worth mentioning here. Through a partnership agreement signed in November 2004, the CEI and the Congolese NGOs committed themselves to proper completion of the electoral process. The participation of various sectors of the Congolese civil society in the designing and in the coordination of the civic and voter education programs was made possible thanks to this agreement. Religious groups, grassroots NGOs specialized in civic and voter education, trade unions, human rights NGOs, women organizations, youth, academic and cultural associations – all coordinated their efforts with the CEI. The popularization of the electoral procedures through public awareness campaigns, seminars, workshops, theatre, and posters fostered an increased participation of Congolese voters.

The criticisms related to civic and electoral education programs are twofold: *first*, there were insufficient funds provided by the international community, and *second*, not all ethnic groups were reached, as many of the actions remained concentrated in urban areas.

Lessons Learned

- The international community must explain very early in the process its level of support for civic education activities.
- The coordination of partnerships remains an essential ingredient of the success of such civic education efforts. To make these efforts even more effective, it would be useful to include those local leaders who are close to the people: traditional chiefs, religious leaders, and teachers.

Local Election Observation

After facing huge difficulties in organizing themselves to observe the registration process and the December 2005 Constitutional Referendum, 24 national observer networks consisting of more than 50,000 observers (an average of nearly one per polling station) created the *Civil Society Consultative Framework* for the observation of the elections. With the financial support of the government of Belgium, the UK *Department for International Development* (DFID), and the US *Agency for International Development* (USAID), they were able to solve problems such as mapping, observer training, and to develop common working tools. The results were impressive:

- Local groups observed the evolution of the electoral process before, during, and after the elections.
- In some provinces, they also planned deployment and shared observation information with international observer groups.
- Their deployment in hotspots where the international observers were denied access for security reasons may have discouraged intimidation manoeuvres during the campaign and on polling day.

On September 1, 2006, the Framework leader submitted their observation reports in which they expressed their hopes for more financial support to build on lessons learned and to prepare for the local elections.

International Election Observation

Seventy countries deployed nearly 1,400 electoral observers spread in more than 40 different missions to testify to the quality of the 2006 polls in the DRC. This was a strong signal of the continuing support of the international community. As for other benefits, we can only speculate:

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- Known to be able to spot frauds on polling day, international observers probably dissuaded manipulation.
 - The publicity that accompanied the international election observation missions, coupled with the activities of observers and their presence in the polling stations, may have reinforced the trust of the populations and their participation in the election.
 - It is difficult to tell if international observers contributed to the acceptance of results, but their common press release, reports, and analyses confirmed the legitimacy of the electoral process and that of election results, thus possibly reducing tensions, sources of complaints, and contestations.
 - They encouraged the election authorities to fulfil their duties with competence and strictness and to act with clarity and accuracy. In that sense, they encouraged the transparency of the electoral process.
 - The recommendations contained in some of their reports can help the electoral authorities to better prepare for the next electoral cycle.

Discussion

The discussion following the presentations centred on the role and potential of domestic observers in post-conflict elections but also on the relationship between local and international actors.

The Importance of Domestic Observers

All participants agreed that domestic observers are key for elections in post-conflict settings. They are especially important as a part of the overall development of civil society in fragile states. Through each new electoral cycle domestic observers gain more credibility and improve their capacities. However, the discussion also identified various potential risks which could spoil the much needed sustainability of domestic observer groups such as scarcity of funds, office space and trained personnel, and lack of public visibility leading to reduced working opportunities.

Some participants feared that lack of funds could not only lead to mutual competition for funds but also exacerbate political polarization through affiliation with political parties. Domestic observer groups have to strive for neutrality, cooperation, and joint statements during electoral processes.

Nevertheless, certain positive examples for sustainable and cooperative domestic observation were raised during the discussion, including Mexico in 2004 where domestic networking was practiced successfully and even led to a meeting on domestic election observation in 2006 which assembled groups from all continents to exchange lessons learned and best practices. Another successful coordination of domestic observer groups took place in the 2003

elections in Nigeria which enabled joint statements of all groups and thus led to a high visibility and influence of these groups.

Domestic observers often play an important role in assisting international observers as they know the country, its political scene, and also cultural issues. Other participants argued that international observers have a huge role in guaranteeing visibility. Especially in fragile security environments their presence contributes to the safety of domestic observers. In addition, their technical knowledge can be used for a day-by-day training of their local counterparts. On the other hand, the international personnel may lack cultural sensitivity or seniority which is important when approaching local stakeholders.

The debate then moved to the question of quality versus quantity of domestic observers. In Kosovo, 27,000 domestic observers were key to successful elections in 2007 as they provided a parallel vote count in an election with a new and very challenging voting system. In contrast, the DRC had not nearly enough domestic observers to fulfil a similar function.

Local and International Electoral Experts – an Equal Partnership?

International electoral assistance and Electoral Management Bodies (EMBs) were another important item under discussion. EMBs in post-conflict settings often lack funds because national governments either have no public funds available or refuse to fund them sufficiently. Instead, the international community often has to be asked to fund elections partially or completely. This is quite problematic in terms of local ownership and sustainability. In the DRC, for example, it took a lot of time to persuade the government to fund 10 percent of the electoral budget – while the EU funded over 80 percent.

The nature of the relationship between international and local electoral personnel and its effect on local ownership is an important issue.

Citing the example of the United Nations Mission in Liberia (UNMIL) and its support to the National Elections Commission, one participant identified two levels of interaction in post-conflict electoral assistance processes. On the national level, UNMIL electoral personnel were co-located with NEC personnel in the same building. Though officially in a mere assistance role, UNMIL staff were not only much more experienced but also controlled considerably more resources. UNMIL legal experts drafted legislations, rules and procedures, agendas, etc., thus having a major influence on the overall process. But through a respectful way of communication and cooperation, Liberian counterparts always felt in charge, and also exercised their right to refuse certain measures or propositions by UNMIL staff.

On the field level, UN Volunteers and other UNMIL experts were supposed to act only as advisors and support staff to their Liberian counterparts. In reality, however, Liberian Electoral Magistrates were in some literally sense not allowed to touch the computers, drive the cars, or have keys to the office space because all were property of UNMIL. True cooperation was thus limited and depended on the individual international expert's willingness to bend certain rules and think outside the box.

VIII. Upcoming Post-Conflict Elections – Key Issues and Problems in Côte d’Ivoire and the Sudan

Francis Oke

Acting Head, Electoral Unit, ECOWAS

My presentation will attempt to lay out the current situation in Côte d’Ivoire, a country that has been in open political crisis since September 2002. After several attempts at solving this crisis, a peace agreement was signed in March 2007 in Ouagadougou/Burkina Faso. According to this agreement, the peace and reconciliation process was to start with so-called *audiences foraines*, public hearings to establish the citizenships of persons where no public record is available, followed by the creation of a credible voters’ register, and the organization of presidential, legislative, and local elections. However, there are several challenges: the security situation; the creation of an independent electoral management body and the role of civil society in the electoral process; and the role international community has in this process.

The Security Situation

Despite the removal of the “zone of confidence” separating the former belligerents, the security situation is still fragile. In line with the peace agreement the *Centre de Commandement Intégrée* (CCI) was created, a combined national security architecture to safeguard the electoral process. The CCI has two heads: a deputy commander from the former rebel group, the *Forces Nouvelles*, and a commander from the National Army. Unfortunately, the work of the CCI has become difficult because each of the forces receive conflicting instructions from their political bases. A blockage of the CCI will

immediately affect not only the DDR process but also the entire security situation.

The Commission Electorale Indépendante (CEI)

The electoral commission of Côte d'Ivoire (CEI) at the central level has 31 members with 12 board members. At the regional level, there are 24 electoral commissions with 31 members each, while at the Department level there are 48 commissions with 31 members. Furthermore, there are 358 electoral commissions at the communal level with 31 members each.

Civil society organizations are complaining that they do not have any representatives on the national level. The CEI, however, argues that NGOs do not have the necessary credibility to be made part of the Commission. The reason for this is that most NGOs in Côte d'Ivoire have become appendages of political parties. It also has to be noted that only the four political parties which signed the Ouagadougou Agreement are part of the CEI: the *Forces Nouvelles*, the *Rassemblement des Républicains* (RDR), the *Parti Démocratique de la Côte d'Ivoire* (PDCI), and the *Front Populaire Ivoirien* (FPI). But currently there are over 145 political parties in Côte d'Ivoire.

The Role of the International Community

The supportive role of the international community is vital for the peace process. It has shown its willingness and ability to support the process financially, technically, and diplomatically. But many international actors are worried about the slow pace of the process. In particular, the *audiences foraines* and the voter identification processes are very time-consuming. The complete voters' list of the year 2000 contained 5.5 million voters and according to information

received by ECOWAS last year an additional 3.3 million persons would have to go through the identification process.

Several donor countries have voiced doubts that elections are feasible at the original date in November 2008. But for political reasons, the official position is still that elections will be organized on November 30, 2008. If elections are not held in 2008, the resources mobilized for that year will be lost as donor budgets are on annual basis and money not used reverts to the donors. If elections are not held in 2008, therefore, there is a risk that there will not be sufficient funds for 2009 and there will have to be an entirely new process to access funds from donors. The most important donors are:

- EU, € 7 million (for training and other activities);
- Japan, CFA 5–7 billion (for posters and election documents);
- Canada, CFA 3 billion (for transparent box and kits for police stations);
- Korea, CFA 10 billion (for satellite transmission of information and intranet between the CEI and their regional offices);
- *Organisation Internationale de la Francophonie* (OIF), CFA 1.7 billion (for transmission of results and participation in international workshops by members of the Electoral Commission); and
- UNDP, CFA 1.5 billion.

The Ivorian Government has also pledged CFA 8 billion, bringing the total budget for the process to CFA 38 billion. In addition the budget for voters' registration activities is an additional CFA 30 billion.

Based on a recent visit to Côte d'Ivoire, I do not believe that the environment is favorable to holding elections in November 2008. The main reason for this verdict is the fact that I did not see the necessary

confidence in the electoral process on the ground, among the people of Côte d'Ivoire. It is true that there is a genuine willingness to proceed among the political leadership. This may have something to do with outside pressure and a perceived necessity to establish democratic credentials. But what about the more than two million potential voters who have still not been identified? What about the misgivings of numerous NGOs that elections at the current point in time constituted major risk for the peace process? I believe that before elections are organized in Côte d'Ivoire the main local actors have to ensure that the results will be credible. If this condition is not met there is a serious possibility for renewed open conflict.¹

1 Elections have since been postponed until the completion of the identification process and the disarmament of ex-combatants.

Vincent Tohbi

Country Director DR Congo, Electoral Institute of Southern Africa (EISA)

My contribution will also consider the current situation leading up to the planned elections in Côte d'Ivoire. As will soon become clear, my evaluation of the conditions is more positive than that presented by the previous speaker.

Positive Factors in Côte d'Ivoire

Firstly, in contrast to other African post-conflict societies such as Sierra Leone, Burundi, the DRC, the Central African Republic, Mozambique, and Angola, the comparatively high level of *infrastructure* in Côte d'Ivoire was hardly affected by the conflict. This is true for transport infrastructure, but also for state structures like the security apparatus, the public administration system, and the judiciary.

Secondly, the *economy* of Côte d'Ivoire did not collapse during the crisis. The annual budget is in fact now higher than before the conflict. Basic services are widely available and public sector salaries are paid on time. In addition, the level of poverty also has also not worsened drastically as a result of the conflict.

Thirdly, Côte d'Ivoire still retains *electoral expertise* that you will not find in most other post-conflict countries. Often in such situations there is a need to create a new constitution, electoral laws, citizenship laws, and political parties. Côte d'Ivoire, however, has a record of successfully organizing elections from 1980 to 2000. Côte d'Ivoire, therefore, has the experienced electoral personnel, the institutions, the database, the voters register, and the general censures figure that will allow them to organize the upcoming elections.

Fourthly, I am convinced that there is real commitment to the peace process at the highest political levels in Côte d'Ivoire. It is true that certain aspects have been criticized by some stakeholders, but no one questions the need to continue the process. The four major parties have all signed on to the Ouagadougou Peace Accord and Laurent Gbagbo, Guillaume Soro, Henri Konan Bédié, and Alassane Ouattara have made it clear that do not see an alternative to it.

Fifthly, the *DDR process* has started and is proceeding according to plan.

Causes for Concern

Firstly, in contrast to the usual practice in post-conflict countries, there is *no election monitoring training* in Côte d'Ivoire for members of political parties or civil society organizations. There is also no training on electoral principles and processes.

Secondly, there is a wide-spread *perception of lack of neutrality* on the part of some members of the CEI. It is vitally important both to improve the performance of the CEI and to communicate its achievements to the public.

Thirdly, and most importantly, the root cause of the conflict is not being addressed. The *question of Ivorian citizenship* for hundreds of thousands of residents in Côte d'Ivoire remains unsolved. One sign of this is the great confusion about the numbers involved. The previous speaker mentioned over 3 million persons whose legal status is unclear, the government has stated that the 586.000 so far identified represent the total number. Whatever the correct figures may be, it is clear that the issue of "identification" needs to be resolved once and for all to prevent future crises.

J. Ray Kennedy

Chief Electoral Affairs Officer, UN Mission in Sudan (UNMIS)

The Comprehensive Peace Agreement (CPA) of January 2005 ended the decades-long civil war between the North and the South and established a Government of National Unity (GNU) – including representatives of both the National Congress Party (NCP) and the Sudan People’s Liberation Movement (SPLM) – and an interim Government of Southern Sudan (GOSS).¹ It is a highly complex document, accompanied by a detailed “implementation matrix”. Together with the Darfur Peace Agreement (DPA) of May 2006 between the GNU and several – but not all – Darfur rebel groups, the CPA determines the ambitious electoral schedule facing Sudan in the coming years. Planned are:

- the referendum on the independence of Southern Sudan, to be held before January 9, 2011, to be organized by the Southern Sudan Referendum Commission (SSRC);
- the referendum on the status of the Abyei region, to be held before January 9, 2011, to be organized by the Abyei Referendum Commission (ARC);
- the referendum on the status of Darfur, to be held before July 9, 2009, to be organized by the National Elections Commission (NEC); and
- general elections, also to be held before July 9, 2009, and to be organized by the NEC.

¹ These remarks were made in the speaker’s personal capacity and do not necessarily reflect the views of the UN Mission in Sudan, the United Nations, or any of its member states.

In addition, the CPA states clearly that these general elections will be held at all levels of government, meaning that at one point before July 9, 2009 the following six elections will have to take place:

- for the office of the President of Sudan;
- for the office of the President of the GOSS;
- for the National Assembly;
- for the Southern Sudan Legislative Assembly;
- for State Governorships; and
- for State Legislatures.

Several of the necessary legal and administrative preparations for this electoral marathon have already been concluded. An Interim National Constitution (INC) and an Interim Constitution of Southern Sudan (ICSS) were adopted in 2005, the Political Parties Act was passed in early 2007, and a pilot census was held in April 2007. For a number of reasons the implementation of many other elements has lagged behind their target dates. In the following I will present a brief summary of the issues with the greatest potential to derail the electoral process in Sudan.

The Political Parties Council

The Political Parties Act calls for the establishment of a *Political Parties Council* to oversee the official registration of political parties. Unfortunately, over 18 months after the passing of the Act the Council still has not been set up. As a consequence, of over 70 political parties in Sudan only 30 to 35 have been registered to date.²

² The members of the Political Parties Council were endorsed by the national parliament in November 2008.

The National Elections Act

Heated discussions have also delayed the enactment of this key piece of legislation. According to the CPA it should have been passed by January 2006. But the body responsible for drafting is deadlocked and has sent an incomplete draft to the Presidency of Sudan for consideration. Currently two issues are still unresolved. *Firstly*, the electoral system: the NCP and SPLM did agree that 55 percent of seats in the parliament will be assigned by first-past-the-post voting and 45 percent by proportional representation. What is controversial is the question on what level the proportional lists would compete. The NCP wants a single national list, the SPLM favours individual state lists. *Secondly*, the two sides disagree on how precisely to implement the stipulated 25 percent quota for women.³

The National Elections Commission

In what is – in my opinion – one of the gravest shortcomings of the CPA, the creation of the NEC is conditioned on the prior establishment of the National Elections Law. Had it been possible to create the NEC independently rather than waiting on the resolution of the political deadlock over the electoral system crucial time could have been gained for the technical and administrative preparation of the elections and referenda. Once the National Elections Law has been passed, the Presidency of Sudan has one month to select seven to nine competent, impartial and representative figures to form the NEC.⁴ The Commission will then set up a High Committee for Southern Sudan as well as offices in the individual states. What is not clear from the CPA, however, is in which way these bodies will relate to the NEC in

3 The National Elections Act was passed by the Sudanese parliament and signed by the president in July 2008.

4 The National Elections Commission (NEC) was sworn in on November 25, 2008.

Khartoum. Would the High Committee, for example, have the right to request assistance from UNMIS, even if the NEC did not?

The Population Census

Apart from the voters' list, several more key parameters of the electoral process will be directly affected by the results of the census that was held in April/May 2008: the representation of North and South at the national level, both in the National Assembly and in the civil service, will be based on the population ratio. Census results will also form the basis for establishing the single-member districts for the first-past-the-post side of the electoral system. Finally, the number of seats in the Southern Sudan Legislative Assembly will be determined by population figures from the census. It is currently not clear when the results will be officially published – or if they will be accepted by all relevant actors. Some have already voiced strong reservations about the inclusion of questions on ethnicity and religion on the census forms that have so far been printed and used in the pilot census of April 2007.⁵

Voter Registration

The CPA does establish a timeline for the voter registration for the referenda, stating that registration must start six months before the referendum date and continue for three months. Unfortunately, however, the CPA is silent on the question of voter registration for the various elections. This has created some controversy. Some actors have argued that the census should double as the registration process for the elections, others want a separate registration process that follows the referendum model on timing.

⁵ The census took place April/May 2008, results are expected in February 2009.

Abyei Boundary Delimitation

Abyei state is claimed by both the North and the South, mainly because it harbours some of the richest oil deposits in Sudan. The CPA created an *Abyei Boundary Commission* – including several international members – whose future findings both sides agreed to accept as final and binding. Yet when the Commission delivered its report, it was rejected by the political leadership of the North. The resolution of this impasse is urgent as the boundaries of Abyei must be delimited before the national and state elections scheduled for next year. Delimitation will also obviously influence the 2011 referendum on the status question, i.e. whether the people of Abyei want to be a part of the North or the South. Because of the strategic importance attributed by both Khartoum and Juba to Abyei state and the high degree of local tensions between various ethnic and religious groups, there appears to be a high risk for continued conflict in this region.⁶

North-South Boundary Delimitation

An investigation establishing the exact course of the administrative border of January 1, 1956, laid down in the CPA as the border between North and South, is ongoing and will take at least six more months to complete. Its results are crucial as they will not only determine where a possible future separation between North and South will be made but also who will be allowed to vote in the referendum.

Referendum Preparations

According to the CPA, a *Referendum Law* should have been passed by July 2007, yet so far there is no sign even of a draft. The CPA also stipulates that two commissions to be in charge of implementing the

⁶ The Abyei boundary delimitation was referred to the Permanent Court of Arbitration in The Hague in June 2008.

referenda have to be established. The *Abyei Referendum Commission* will be set up by the Presidency of Sudan, the *Southern Sudan Referendum Commission* – which should include international experts – through a process to be determined by the National Constitution Review Commission. As already mentioned, it is mandatory that the voter registration process for both referenda begins six months before referendum, in July 2010, and ends in October of that year.

The Role of UNMIS

The role of UNMIS in this highly complex environment is determined by UN Security Council Resolution 1590. It is “to provide guidance and technical assistance to the parties to the CPA to support the preparations for and conduct of elections and referenda provided for by the CPA”. What this broad definition could mean in practice is that UNMIS could end up providing assistance

- to multiple electoral/referendum processes,
- administered by multiple electoral management bodies,
- at different points in their implementation at any given moment,
- for elections/referenda to be held on multiple dates.

Annex

List of Abbreviations

APEC	Project d'Appui au Processus Électoral en RDC
ARC	Abyei Referendum Commission
AU	African Union
CCI	Centre de Commandement Intégrée (Côte d'Ivoire)
CEC	Central Election Commission (Kosovo)
CECS	Central Election Commission Secretariat
CEEOM	Council of Europe Election Observation Mission
CEI	Commission Electorale Indépendante (DRC, Côte d'Ivoire)
CEMAC	Commission de la Communauté Économique et Monétaire de l'Afrique Centrale
CIAT	Comité International d'Accompagnement de la Transition (DRC)
CPA	Comprehensive Peace Agreement (Sudan)
DDR	Disarmament, Demobilization, and Reintegration
DFID	Department for International Development
DPA	Darfur Peace Agreement
DPA	Department of Political Affairs (UN)
DRC	Democratic Republic of the Congo
DRE	Direct Record Electronic
ECAC	Electoral Complaints and Appeals Commission
ECOWAS	Economic Community of West African States
ED	Electoral Division (OSCE)
EISA	Electoral Institute of Southern Africa
EMB	Election Management Body
EU	European Union

EUFOR RD Congo	EU Force in the DRC
EUPOL Kinshasa	EU Police Mission in Kinshasa
EUSEC RD Congo	EU Security Sector Reform Mission in the DRC
EUSR	EU Special Representative
FPI	Front Populaire Ivoirien
FPTP	First-Past-the-Post (electoral system)
GIS	Geographic Information System
GNU	Government of National Unity (Sudan)
GOSS	Government of Southern Sudan
GPS	Global Positioning System
GTSE	Electoral Safety Technical Group
ICSS	Interim Constitution of Southern Sudan
IDP	Internally Displaced Person
IFES	International Foundation for Electoral System
INC	Interim National Constitution (Sudan)
IPPS	International Polling Stations Supervisors
IRI	International Republican Institute
KAIPTC	Kofi Annan International Peacekeeping Training Centre
LECIA	Legon Centre for International Affairs
LURD	Liberians United for Reconciliation and Democracy
MEC	Municipal Election Commission (Kosovo)
MLC	Mouvement pour la Libération du Congo
MMP	Mixed-Member Proportional (electoral system)
MODEL	Movement for Democracy in Liberia
MONUC	Mission des Nations Unies en République Démocratique du Congo
NAMFREL	National Movement for Free Elections (Philippines)
NCP	National Congress Party (Sudan)

NDI	National Democratic Institute for International Affairs
NEC	National Election(s) Commission
NEW	National Election Watch (Sierra Leone)
NGO	Non-governmental organization
OCR	Optical Character Recognition
ODA	Official Development Assistance
OIF	Organisation Internationale de la Francophonie
OMR	Optical Mark Recognition
ONUMOZ	UN Operation in Mozambique
OSCE	Organization for Security and Cooperation in Europe
PDCI	Parti Démocratique de la Côte d’Ivoire
PPLC	Political Parties Liaison Committee (DRC)
PPRD	Parti du Peuple pour la Reconstruction et la Démocratie
PR	Proportional Representation (electoral system)
PVT	Parallel Vote Tabulation
RCD	Rassemblement Congolais pour la Démocratie
RDR	Rassemblement des Républicains (Côte d’Ivoire)
RENAMO	Resistência Nacional Moçambicana
RoL	Rule of Law
SADC	Southern African Development Community
SC	Security Council
SPLM	Sudan People’s Liberation Movement
SRSG	Special Representative of the Secretary-General
SSR	Security Sector Reform
SSRC	Southern Sudan Referendum Commission
UNDP	United Nations
UNDP	United Nations Development Programme

UNICEF	United Nations (International) Children's (Emergency) Fund
UNMIK	United Nations Interim Administration Mission in Kosovo
UNMIL	United Nations Mission in Liberia
UNMIS	United Nations Mission in Sudan
USAID	United States Agency for International Development
VSAT	Very Small Aperture Terminal
WACSOF	West African Civil Society Forum
ZESN	Zimbabwe Election Support Network
ZIF	Center for International Peace Operations

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Agenda

Thursday, June 12th

08:30 Registration and Coffee

09:00 **Official Opening and Introduction of the Seminar**
Commodore Albert Addison, *Deputy Commandant KAIPTC*
Winrich Kuehne, *Director ZIF*

09:30 **Panel I**
The Role of Elections in Stabilizing Post-Conflict Countries
Speaker: Kwado Afari-Gyan, *Chairman, National Election Commission, Ghana*
Discussant: Aldo Ajello, *former EU Special Representative for the Great Lakes Region*
Discussion

10:30 Coffee Break

11:00 **Panel II**
Electoral Commissions – Funding, and International Assistance

- Models, composition and working methods of national electoral management bodies – Lessons Learned from Liberia, DR Congo, Kosovo.
- Funding elections – key issues, mechanisms, and problems.
- What is the value-added of international technical assistance?

Speaker: James M. Fromayan, *Chairman, National Election Commission, Liberia*

Discussants: Christina A. Thorpe, *Chief Electoral Commissioner, Sierra Leone;*

Hugh Fulton, *Head of Electoral Division, OSCE Mission in Kosovo*

Discussion

13:00 Lunch

15:00 **Panel III**

The Role of Modern Technology in Elections

- Modern technology – its implications for administering, implementing, and monitoring elections
- What is the impact of modern technology on voters' confidence?
- Is the use of modern technology sustainable in post-conflict countries?

Speaker: Tajoudine Ali-Diabacté, *Deputy Director, Electoral Assistance Division, UN-DPA*

Discussants: Philipp Tali, *Electoral Programme Officer, UNDP, Liberia;*

Keith Jennings, *President, African American Human Rights Foundation*

Discussion

16:30 Coffee Break

17:00 Discussion continued

18:00 Conclusion

19:30 Dinner

Friday, June 13th

- 09:00 **Panel IV**
Electoral Complaints and the Justice System
- Models, mechanisms, and problems of the electoral complaints and appeals process in post-conflict countries
- Speakers:** Norbert Koster, *International Judicial Support Division, UNMIK, Kosovo*
Christina A. Thorpe, *Chief Electoral Commissioner, Sierra Leone*
- Discussion**
- 11:00 Coffee Break
- 11:30 **Panel V**
Confidence Building Measures and Dispute Resolution
- Confidence building measures and non-judicial dispute resolution before, during, and after post-conflict elections
 - The role of regional and international special envoys and mediators
- Speaker:** Aldo Ajello, *former EU Special Representative for the Great Lakes Region*
- Discussants:** Vincent Tohbi, *Country Director, DR Congo, Electoral Institute of Southern Africa*;
Kwado Afari-Gyan, *Chairman, National Election Commission, Ghana*
- Discussion**
- 13:00 Lunch

- 14:30 **Panel VI**
Peace Agreements, Electoral Law, and the Timing of Elections
- How should elections be dealt with in peace agreements?
 - Key issues in electoral law
 - Proper timing of elections as a key element of the stabilization process
- Speaker:** J. Ray Kennedy, *Chief Electoral Affairs Officer, UNMIS, Sudan*
- Discussant:** Tajoudine Ali-Diabacté, *Deputy Director, Electoral Assistance Division, UN-DPA*
- Discussion**
- 16:00 Coffee Break
- 16:30 **Panel VII**
Local Ownership
- Theory and practice of local ownership in planning, organizing, and implementing elections – Liberia, Kosovo, DR Congo, and other case studies
 - Lessons learned with regard to local election observation and the value of international observers
- Speakers:** Martina Duettmann, *Elections Training Advisor, OSCE Mission in Kosovo;*
Vincent Tohbi, *Country Director, DR Congo, Electoral Institute of Southern Africa*
- Discussant:** Micheline Begin, *former Country Director DR Congo, International Foundation for Electoral Systems*
- Discussion**
- 18:00 Conclusion
- 19:30 Dinner

Saturday, June 14th

- 09:30 **Panel VIII**
Upcoming Post-Conflict Elections – Côte d’Ivoire and the Sudan
- Key issues and challenges in Côte d’Ivoire and Sudan
- Côte d’Ivoire – *Speakers:*** Francis Oke, *Acting Head, Electoral Unit, ECOWAS;*
Vincent Tohbi, *Country Director, DR Congo, Electoral Institute of Southern Africa*
- Sudan – *Speaker:*** J. Ray Kennedy, *Chief Electoral Affairs Officer, UNMIS, Sudan*
- Discussion**
- 12:00 **Concluding Remarks and Farewell**
Thomas Jaye, *Senior Research Fellow, Conflict Prevention, Management & Resolution Department, KAIPTC*
Winrich Kuehne, *Director, ZIF*
- 13:00 Lunch