

# The World of Parliaments

Quarterly Review of the Inter-Parliamentary Union

July 2007 • N° 26

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IPU President Pier Ferdinando Casini and Speaker of the US House of Representatives, Ms. Nancy Pelosi.

## IPU President meets with Congressional leaders in Washington

IPU President, Pier Ferdinando Casini, was in Washington, D.C. on 12 June to meet with leaders on Capitol Hill. They discussed the growing cooperation between the IPU and the United States Congress. In this context, the IPU President and the IPU Secretary General, Mr. Anders B. Johnsson, met with Speaker Nancy Pelosi; Congressman Tom Lantos – Chairman of the House Foreign Affairs Committee; and Congressmen Gregory Meeks and Wayne Gilchrest – co-Chairs of the Congressional Dialogue Caucus. They also met the members of Congress attending the panel discussion

on the *International Parliamentary Response to HIV/AIDS*, organized jointly by the IPU, UNAIDS and two Congressional Caucuses. President Casini held talks with Senator Thomas Daschle and with Kenneth Wollack, President of the National Democratic Institute (NDI), with which the IPU has been working closely over the past years. Underlining their commitment to multilateral parliamentary cooperation, the Congressional leadership proposed a series of concrete measures intended to pave the way for the reaffiliation of the US Congress to the IPU.



## Film makers can help change image linking masculinity to firearms

The IPU has recently published two Handbooks, one on violence against children (together with UNICEF), and the other on the control of small arms (jointly with the Centre for Humanitarian Dialogue). Actress Sarah Jones, a UNICEF goodwill ambassador, noted that television and the Internet could raise awareness on violence against children and that Hollywood, which dictates the images that adults and children are seeing, has an important role to play in stopping a culture of violence. Ms. Mireille Widmer from the Centre for Humanitarian Dialogue (HD Centre), added that film makers can help change the image linking masculinity to firearms.

See pages 2 and 3

French actress Sara Forestier wears an Amnesty International Demo Dress. *Chacun son Cinema*, film premiere at the 60th Cannes Film Festival, Cannes, France, 20 May 2007.

## How to control 640 million light weapons?

Estimates put at 640 million the number of small arms and light weapons in circulation in the world. A large portion of these handguns, assault rifles and hand-held anti-aircraft missiles are in the hands of private individuals. Recent dramatic events having underscored the urgent need to take action, the IPU and the Centre for Humanitarian Dialogue (HD Centre) - both with headquarters in Geneva - have jointly published a handbook for parliamentarians on *Missing pieces: A guide to reducing gun violence through parliamentary action*. Ms. Mireille Widmer, Project Manager, Human Security and Small Arms, of the HD Centre, explains the intricacies of this problem. Interview.

### **Q: What role can parliamentarians play?**

**M.W.:** We have always worked at the diplomatic level in the UN process on small arms control and although diplomats can and should adopt the major policy lines, it is MPs who can play an important role in implementing those policies in their respective countries. That concerns the transfer and collection of surplus arms as well as regulations on their use. Parliamentarians can therefore adopt laws to control guns in civilian hands and support campaigns to draw people's attention to matters related to the security services and other agencies responsible for maintaining public order, which do their job properly and thereby help reduce the demand for weapons in the country.

### **Q: Is it not difficult to legislate in countries where light weapons are in the hands of civilians who use them for self-defence?**

**M.W.:** We respect the fact that consideration must be given to each country's circumstances. There can be no single, one-size-fits-all formula. Through this Handbook, we have endeavoured to illustrate the experiences of certain countries to control arms and show that those measures have been effective and have led to a fewer number of deaths by firearms and the consequent trauma they cause. The purpose of those measures is to save lives and enhance security for citizens. We have also listed a number of questions that MPs in

every country must ask themselves before passing laws. We accept that there is, to some degree, a legitimate use for small weapons, but who has the right to own arms, what type of arms, how many can be kept in a home and in what manner they may be used are all issues that need to be clearly defined.

### **Q: How can laws be passed when the majority of movies and TV shows targeting teenagers project a culture of self-defence, force and the use of firearms?**

**M.W.:** This is an interesting point that concerns the world of cinema, image and the gender problem. Up to now, each time the gender perspective crops up in relation to firearms, women and children are always portrayed as the victims of gun violence. The Handbook for parliamentarians shows that there is a very strong link between masculinity and firearms and we should take that into account.

### **Q: How can that be done?**

**M.W.:** Mentalities change gradually. We should be aware of that and condemn the adverse effects that might cause. To achieve that, men and women have a major role to play. After all, women who find men with firearms more attractive are also part of the problem. Changing that image will be done gradually, as was done with smoking. We see fewer and fewer films where the hero constantly has a cigarette in his mouth because smoking has been stigmatized and efforts to make people aware of the

dangers of smoking have been made. The same thing has to be done with arms, which constitute a public health hazard.

### **Q: The economic aspect is also important, because arms represent a very lucrative trade.**

**M.W.:** The importance of the trade in light weapons has to be considered in relative terms. No doubt the trade in heavy weapons and weapons of war is very important, but the profits reaped from small arms are much more modest. The Small Arms Survey publishes an annual review that puts the significance of that trade into relative terms. Not every country in the world produces light weapons: the five permanent members of the Security Council together produce 88 per cent of all conventional weapons. The problems that arise in manufacturing countries also have to be tackled. The solution is not necessarily to ban weapons, but to exercise more effective control to avoid them ending up in the hands of persons who would abuse them. A campaign on arms transfers has been launched and Great Britain is playing a very constructive role in this regard. The weapons industry has backed that effort, which means that it has an interest in it, not to ban the use of firearms, but to try and limit the damage by putting safeguards in place. Therefore there is not necessarily any opposition between the light weapons industry and parliamentarians, who want to put common sense checks and balances in place.



## IPU Secretary General on official visit to Thailand

Immediately following the conclusion of the 116th Assembly of the IPU, the IPU Secretary General, Anders B. Johnsson, paid an official visit to Thailand for talks with the authorities of the Kingdom of Thailand regarding the democratization process under way in the country.

He was received by the Vice-President and several members of the National Legislative Assembly, as well as the President of the Constitutional Assembly and members of its Constitutional Drafting Committee. Mr. Johnsson also met with leaders of the main political parties, the Secretary General and senior staff of the Election Commission, the Deputy Secretary of the Parliament and the Deputy Secretary General of the King Prajadhipok Institute, an independent research and training institute attached to the Thai Parliament.

During their talks, the Secretary General conveyed the message of the IPU Executive Committee, namely that it looks forward to a new constitution being adopted and elections taking place before the end of the year so that the elected parliament can resume the very active role it has traditionally played in the work of the Inter-Parliamentary Union. The Secretary General was also briefed on the oversight role currently being played by the National Legislative Assembly. The talks focused on the first draft of the constitution, which had been made public the previous week. A number of independent institutions, including the National Legislative Assembly, were in the process of formulating their comments on the draft. The Secretary General offered input from the IPU based on its normative work in relation to democratic parliaments and free and fair elections.

The Secretary General also discussed a possible role for the IPU in assisting the parliament and the constitution-making process in Thailand. The Thai authorities requested the IPU to consider providing assistance to strengthen the parliament's oversight function through the parliamentary Public Accounts Committee. They also expressed an interest in having the IPU provide support to the Thai authorities in developing organic laws to implement the constitution that should be adopted through a referendum later this year, specifically in relation to regulating political parties and the election process.

## Editorial

### *Hollywood can help stop the culture of violence*

The 116th Assembly of the IPU held in Nusa Dua, (Bali, Indonesia), addressed important challenges such as violence against children, climate change and control of small arms. "Children's rights and climate change are strongly linked", said Ms. Cindy Kiro, New Zealand's Children's Commissioner, at a press conference, where the IPU

and UNICEF jointly launched a Handbook for legislators on violence against children.

If adults want to save the planet and give future generations a chance to survive in a world where the rule of law and not the law of the jungle prevails, they have to set an example, by respecting, and not destroying, the environment for profit, protecting the rights of all children and controlling efficiently the use of small arms.

According to Ms. Katharine Bostick, Director of Microsoft Asia Pacific, we have to combat violence against children in school, but also to take a serious look at what children can find on the Internet in terms of violent images and movies. "At Microsoft our responsibility is to ensure that the Internet is safe, and we need to be part of the community which will work to make it safe".

On presenting the IPU-UNICEF Handbook on how to combat violence against children, Chilean Senator Juan Pablo Letelier stated that violence is a human rights problem, "perhaps one of the major human rights problems today. There is a high chance that a child suffering abuses will become a violent adult. We need to break this chain of practice. Boys and girls have the right to live in dignity, with respect and be treated according to decent standards". But if adults are to set standards, they have to take serious steps to stop violence at all levels of society. Actress Sarah Jones, a UNICEF goodwill ambassador, noted that television and



IPU and UNICEF launched a Handbook for legislators on violence against children in Indonesia. From left to right: Senator Juan Pablo Letelier, actress Sarah Jones, Ms. Cindy Kiro and Ms. Katharine Bostick.

the Internet could raise awareness, and that Hollywood, which dictates the images that adults and children are seeing, has an important role to play in stopping a culture of violence. "Electronic games, which award points depending on how many people you kill, constitute cultural violence. Nobody is taught at five years that it is good to kill. We need to change the meaning of some entertainment, to understand how movies can be made, and how messages can be sent. And beyond a doubt, the first step should be to create instances of self-regulation", she underlined.

The IPU has also published a Handbook for parliamentarians in conjunction with the Centre for Humanitarian Dialogue (HD Centre) on controlling small arms and light weapons (see page 2). An interesting point raised therein is the strong link between masculinity and firearms, which should be taken into account. Here again, Hollywood and television film directors can make the difference together with legislators.

"Changing that image will be done gradually, as it was done with smoking. We see fewer and fewer films where the hero constantly has a cigarette in his mouth because smoking has been stigmatized and efforts to make people aware of the dangers of smoking have been made. The same thing has to be done with arms, which constitute a public health hazard", said Ms. Mireille Widmer, of the HD Centre.

L.B.

## IPU-UNICEF COOPERATION

### "Legislators should have meaningful exposure to the many issues of host countries"

by Ms. Kay Hull, Member of the Australian Parliament

The 116th Assembly of the IPU held in Indonesia provided the backdrop to an IPU-UNICEF field trip for legislators interested in child protection issues to witness how children and their mothers have come to cope in a highly vulnerable environment. The field mission was supported by the Indonesian Parliament. Three Indonesian members of parliament accompanied their colleagues from Australia, Canada, Egypt, Germany, Iceland, Italy, Mexico, Monaco, South Africa and Uruguay to Nusa Tenggara Barat, on the island of Lombok, on 2 May 2006. They were escorted by the Deputy Executive Director of UNICEF, Mr. T. Niwa, and several UNICEF and IPU staff members. What follows is the account of the trip presented to the closing session of the 116th Assembly by one of the visiting MPs, Ms. Kay Hull, of Australia.

It was a great pleasure to report on the field trip organized by the UNICEF-IPU partnership. We would like to thank UNICEF for the excellent organization of the visit to Lombok and applaud the partnership between the IPU and UNICEF.

The field visit commenced at a community-based health post, where we viewed a maternal and children's health care and nutrition programme conducted by community volunteers. As malnutrition is a significant problem in many areas the delegates were impressed with the holistic approach to maternal nutrition and the immunization programme conducted at the health centre.

Our interaction with the children at an elementary school saw the efforts of the government and education system in educating children on the Convention on the Rights of the Child and corporal punishment. It was interesting to observe the drawings of the children that mainly consisted of domestic violence and parent-to-child violence. Many of the MPs believed that parents need more education on the rights of children and that this should be universal.

The delegation attended a maternity hut, where we spoke with a mother who had just one hour before given birth to a tiny baby girl. The problem of maternal mortality is a huge challenge for Indonesia. This was demonstrated in our discussion with the mother of the newborn baby girl, when she told us this was her sixth baby, but three had died at various ages of infancy.

An additional challenge is female genital mutilation (FGM) or circumcision. Even though the Indonesian Government has issued a circular advising Health Commissions not to carry out this procedure it is still very widely practised. The mother of the newborn girl told us that she would have her baby circumcised.

It should be recognized how difficult it is for the Indonesian and Provincial Governments to provide education and information on the practice of female circumcision to a population of 200 million people on 18,000 islands. However, it reminded the delegation that



Ms. Kay Hull in Lombok

there is a great need for heightened public awareness on the issue of female genital mutilation.

Another significant issue that IPU Members must recognize and act on is the registration of each child at birth. This was also highlighted at the maternity hut. Partnerships between government, provinces, UNICEF and NGOs are attempting to address registration of all births in Indonesia. However, it is a problem in many countries.

Registering a child at birth is the beginning of a child's basic rights. In many countries a child can die, be trafficked or murdered and authorities may never know because there is no official record of the child's existence. The field trip reinforced the fact that countries must implement affordable registration of all births as a child's basic right. The absence of registration also presents a problem that the IPU deals with regularly, namely, statelessness.

The role of men in maternal and neonatal care was also demonstrated by the "OJEK" drivers who provide outreach support to mothers and families.

The working lunch with the Provincial Secretary representing the Governor of Lombok was informative and the dialogue with the provincial representatives was very frank and open. The Provincial Secretary advised



us of the many issues confronting them such as a life expectancy of 58 years, but most important were the issues concerning the protection of children against trafficking and many violations of children's rights.

The delegation split into two groups and from reports of the group that went to the Provincial Police Office, I can say that we were impressed with the training programme undertaken by police in order to develop the necessary skills to deal with victims of violence and abuse. In addition, the delegation engaged in extensive dialogue with representatives of the women's and children's desk, who provide a specific referral service for different kinds of abuse issues.

I took part in the Lombok Child Protection body or NTB visit, where we discussed many things with youth members of the MATARAM Children's Council. These young people aged between 15 and 17 were an inspiration through their articulate delivery of issues confronting children on Lombok. IPU delegates, as adults and experts, continuously discuss children's issues but who is better to discuss these issues than our nation's youth!

I advocate that we introduce a formal procedure at each Assembly in a host country, where we interact with a panel of representative youth of that country, such as the MATARAM Children's Council on the island of Lombok.

The MATARAM Children's Council strives to achieve the realization of children's rights. They had drawn a map of the child's tree of the mind, body and soul. Their message was clear: *"When you beat and abuse my body you are not only leaving scars and broken bones on my physical self; you are destroying my mind and soul! My broken bones and bruises may heal but my mind and soul are lost to me forever."* The plea from this youth group to the visiting parliamentarians was: *"We want to be children and we want to play as children; we do not want to be afraid of being sold into slave labour or the sex industry. Let us be children. Please listen to us speak and then go back to your parliaments and be the voice of the children in your parliaments."*

Finally, on behalf of the delegates who participated in the field trip, we thank the IPU and UNICEF for the opportunity to be involved and we recommend that more delegates be able to have such meaningful exposure to the many issues of our host countries. We congratulate UNICEF for its wonderful work, particularly in the area of child protection.



Ms. Angelina Sondakh, member of parliament of Indonesia, chaired the panel entitled *Making schools safe for children*.

## Make schools a violence-free space

A panel discussion on *Making schools safe for children* was held during the 116th Assembly of the IPU at the behest of women parliamentarians. Participants recalled that millions of children spent more time in the care of adults in educational settings than anywhere else outside their homes and that violence in schools may be physical or psychological.

Organized by the IPU and UNICEF, the panel was attended by legislators and keynote speakers included actress and UNICEF spokesperson, Ms. Sarah Jones, Chilean Senator Juan Pablo Letelier, the Deputy Speaker of the South African National Assembly, Ms. Gwen Mahlangu-Nkabinde, the Children's Commissioner of New Zealand, Dr. Cindy Kiro, and Senior Director, Microsoft Asia Pacific, Ms. Katharine Bostick. The panel was chaired by Ms. Angelina Sondakh, member of parliament of Indonesia.

The participants recalled that violence at the hands of teachers and other school staff includes corporal punishment and other cruel and humiliating forms of punishment or treatment, sexual abuse, sexual harassment and bullying. They added that forms of violence perpetrated by children include bullying, sexual abuse, schoolyard fighting, gang violence and armed assault.

The panel addressed the subject of violence at school from several angles, emphasizing the key role of parents, educators, lawmakers and the media in preventing it. Violence against children is a universal phenomenon, irrespective of social class, level of development, wealth, race, culture, etc. It does not originate in schools, but rather reflects the dynamics within the home and within society at large.

The participants also pointed out the need to educate and empower families and children, as children are often regarded as objects and not the subjects of rights. Parliamentarians have a key role to play as there is a need for strong legislation and effective implementation. But legislation is not enough. Existing laws must be implemented and political determination and appropriate training of teachers are crucial to implementation.

There is also a long-term need to change attitudes and behaviour and greater accountability is required by the media, which often creates and perpetuates a culture of violence and reinforces negative stereotypes, such as those related to gender, which may indirectly encourage violence. Last but not least, technology constitutes a new vector of violence against children. See also Editorial on page 3.

## Exhibition

### The plight of imprisoned parliamentarians-elect in Myanmar

During the 116th Assembly of the IPU, the President of the IPU Committee on the Human Rights of Parliamentarians, Senator Franklin Drilon of the Philippines, and the Speaker of the Indonesian House of Representatives, Mr. Agung Laksono, inaugurated an exhibition set up by the Committee on the Human Rights of Parliamentarians, at the entrance hall of the Bali International Conference Centre. The exhibition gave a face to and told the story of each of the twelve parliamentarians-elect in Myanmar who continue to languish in prison. Through this exhibition, the IPU Committee made an appeal for increased parliamentary action to help effect change in Myanmar.



### First meeting of the Group of Eminent Persons in Sri Lanka

As part of its programme to defend and promote human rights, the IPU provides assistance to Sri Lanka. At its suggestion, Mr. Marzuki Darusman, former Attorney General of Indonesia and member of the Indonesian Parliament, was included in the International Independent Group of Eminent Persons (IIGEP), established to ensure that the proceedings of the Commission of Inquiry, due to investigate human rights abuses, were in conformity with international standards.

In November 2006, the President of Sri Lanka, Mr. Mahinda Rajapakse, set up the Commission of Inquiry to investigate 15 incidents of grave human rights abuses, including the killings of two members of parliament, Joseph Pararajasingham and Nadarajah Raviraj. See also issue No. 25 of The World of Parliaments at: <http://www.ipu.org/news-e/25-6.htm>.

The IIGEP, chaired by former Chief Justice of India, Mr. Bhagwati, met in Colombo last in May to discuss the contents of a report and recommendations to be submitted to President Rajapakse. Its members exchanged views with the Commission of Inquiry on the establishment of the Commission's

Investigations and Witness and Victims Assistance and Protection Units, and the role of the Attorney General's Office, which currently acts as the Commission's legal counsel.

The meeting provided IIGEP with an opportunity to observe the Commission's investigation into the killing of 17 workers belonging to a non-governmental organization, Action contre la Faim, in August 2006 in Muttur.

The Commission intends to prove its efficiency. It started with questioning - through Deputy Solicitor General Kodagoda - one of the officers of the Criminal Investigation Department who had dealt with this case in the past. In addition to holding hearings in Colombo, the Commission also intends to carry out visits to the crimes scenes and gather testimonies of witnesses.

The Commission's Chairman, Justice Nissanka Udalgama, said that it was the Commission's "unwavering ambition to ensure that we ascertain the whole truth in respect of all incidents which the Commission is required to investigate". He added: "We will go to whatever extent that is required to ascertain the truth".

### ...IN THE PRESS...

#### Unlawful lifting of MP Léonard Nyangoma's parliamentary immunity: Inter-Parliamentary Union proposes a way out of impasse

The lifting of MP Léonard Nyangoma's parliamentary immunity, and the subsequent termination of his parliamentary mandate once again held the attention of the Inter-Parliamentary Union (IPU) at its 116th Assembly held in Nusa Dua, Bali, Indonesia, from 29 April to 3 May 2007. With a view to obtaining further information on the case of Léonard Nyangoma, president of the CNDD party and leader of the opposition in Burundi, the IPU's Committee on the Human Rights of Parliamentarians met the President of the Senate, Gervais Rufyikiri, and another member of the Burundian delegation to the Assembly. The solution proposed by the IPU to overcome the technicality in question is for the National Assembly to adopt a decision to reinstate Mr. Nyangoma, thereby restoring his parliamentary functions, and send that decision to the Constitutional Court, which will subsequently deliver a corresponding ruling. In that way, the orders issued by the Constitutional Court will be respected and in parallel, the National Assembly will have redressed an injustice done to CNDD party leader, Léonard Nyangoma. The Inter-Parliamentary Union has expressed its wish to ascertain whether the legal proceedings against Mr. Nyangoma have been dropped in the meantime.

**All Africa.com - Burundi Réalités - 4 June 2007**



## TECHNICAL COOPERATION

### Afghanistan:

**"It will take time to change attitudes before a democratic National Assembly is here to stay without international support"**

**S**ir Michael Davies, an IPU expert, has recently come back from Afghanistan. He explains why it is important to continue to support the institutions in this country. Interview.

**Q: You have recently returned from two short stints in Afghanistan working for a project to Support the Establishment of the Afghan Legislature (SEAL), sponsored by the United Nations Development Programme (UNDP) and the IPU. Can you explain what you actually did?**

**M.D.:** My role was to advise on ways in which the legislature might seek to improve its capacity to pass legislation, of which there is a huge backlog built up since the formation of the Afghan Government in 2005, but I have also given advice on other matters of parliamentary procedure and have assisted in the training of staff.

**Q. What, in your view, are the major challenges facing the fledgling Afghan Parliament?**

**M.D.:** The present legislature is something new in Afghanistan. There have been thirty years of conflict since the last form of representative government was abolished in 1973. This means that neither members nor staff of the two Houses have any parliamentary experience and are having to learn their respective roles while actually carrying out their duties. It will undoubtedly take time for them to acquire the necessary skills. I believe that there is an eagerness to perform more effectively but the National Assembly currently lacks the infrastructure that those who work in European and other western parliaments take for granted. The accommodation is fragmented and rooms for Committee meetings are inadequate. I attended a Committee meeting where there was absolutely no room to squeeze in another chair and the arrangements were bordering on the chaotic.

**Q: Do you think the current political context is conducive to an effective parliament?**

**M.D.:** The electoral system in Afghanistan does not encourage the

formation of political parties and this is a major problem in getting the two Houses to act constructively since there are always numerous different opinions on any one issue - almost as many opinions as members. This means that the government is largely spared the need to account for its policies because there is no structured and sustained opposition. Effective oversight is not possible in a fragmented parliamentary environment.

**Q: Are the plenary sessions and Committees effective in achieving constructive oversight?**

**M.D.:** Those who preside over the plenaries and the committees have the often unenviable task of trying to ensure that discussion sticks to the point and that constant repetition is avoided. Chairmanship is not easy but it is an essential element in an effective parliament. Capacity building in the art of chairmanship would, I am sure, be a worthwhile project. The major problem at present is the lack of procedural discipline in the Chambers, particularly in the Lower House, the Wolesi Jirga. Too often the business before the Wolesi is disrupted by members raising issues of local interest or some perceived insult to the National Assembly. It is almost certain that these interruptions will diminish as members become more used to the requirements of parliamentary life and realize that they will achieve more if they keep their energies for conducting oversight of the Executive. But this will take time. However, although the male members of the two Houses would probably not agree, the presence of a significant number of women parliamentarians is proving a constructive element.

**Q: What are the working relations between the MPs and the parliamentary staff?**

**M.D.:** One concern I have had on my short visits to Afghanistan is that the staff of the

two Houses are not respected as professional parliamentary advisers and helpers as they are in countries with thriving democracies. I tried to encourage the committee staff in particular to show their capabilities but many of them are concerned about their job security if they push themselves forward as advisers. There is a cultural explanation for this; nevertheless, it diminishes the role of the staff. A strong and professional staff cadre can have a very positive impact in the oversight functions of a parliament. I hope that Afghan parliamentarians will gradually come to rely more on the staff than they do now.

**Q: How is the international community's support perceived by the Afghan legislators?**

**M.D.:** Inevitably, there are tensions about the involvement of the international community in the affairs of the legislature. Capacity building and assistance in all sorts of fields is welcomed by the majority of members but in the case of legislation, there is a perception that not sufficient regard is paid to Afghan culture and practices. There is certainly a need to approach these issues with sensitivity.

**Q: Despite the daunting challenges you have just described, is there any chance the Afghan Parliament will emerge as a key player in the democracy field?**

**M.D.:** I believe that the National Assembly will continue to require support, principally financial support, but also advisory support, for a substantial number of years yet. Afghanistan is unused to a representative system of government and it will take time to change attitudes before it can be confidently asserted that a democratic National Assembly is here to stay without international support.



Library of the Wolesi Jirga in Kabul.

Photo IPU/Chungong

### "FREE AND FAIR ELECTIONS"

By Victor-Yves Ghebali, Professor at the Graduate Institute of International Studies, (HEI), Geneva



Prof. Victor-Yves Ghebali

Excerpt - Lexicon on Post-Conflict Peacebuilding, edited by Vincent Chetail and Marc Roissard de Bellet, to be published at Oxford University Press, Oxford.

Whether presidential, parliamentary, local or referenda [-type], free and fair elections are popular consultations aimed – in peacetime, crisis situations or post-conflict settings – at the establishment of a legitimate representative government through a process meeting (in addition to fairness and freedom) the standards of periodicity, universality and equality of suffrage, secrecy of choice, as well as transparency and accountability of the vote. Currently subject to international observation, they raise two issues: election standards and observation standards.

The concept of "free and fair elections" was developed in the context of decolonization. It made one of its earliest appearances in a 1956 United Nations report devoted to the accession of Togo to independence (John M. Ebersole, 1992). It has still no accepted definition, for the simple reason that universal, regional intergovernmental organizations and NGOs use the adjectives "free" and "fair" interchangeably with those of "honest", "genuine", "impartial", "sincere", "democratic" or "transparent". Actually, freedom concerns participation and choice, while fairness has to do with equality, impartiality and non-discrimination (Guy Goodwin-Gill, 2006).

Elections can be considered as "free" if conducted in the absence of significant pressure, intimidation or violence on voters, and labelled "fair" when all candidates are basically treated on a non-discriminatory basis (Elklit and Svensson, 1997). In any case, the prerequisites of freedom are more easy to achieve and be assessed than those of fairness. An election can basically meet the standard of freedom without offering really equal chances to all candidates or parties – and not counting the challenges posed by electronic voting for transparency and accountability, as well as by absenteeism, early, or postal voting for secret ballot (Guy Goodwin-Gill, 2006). Anyhow, free and fair elections is a matter of common

interest for long-standing democracies as well as States in transition from authoritarianism to democratic governance, and from war to peace.

As for international election observation, it was inaugurated in 1857 by a Commission of European powers, which oversaw a plebiscite in the challenged territories of Moldavia and Wallachia (Yves Beigbeder, 1994). The trend developed after WWII under the aegis of the United Nations in relation to decolonization, peaceful democratic transitions and peacekeeping operations. In the post-Cold War era, it has become current practice. However, since the late 1990s, the United Nations focuses on electoral technical assistance to Member States upon request and rarely conducts direct observation on the ground which is actually carried out by a host of regional intergovernmental organizations and NGOs.

#### Normative and operational content

Free and fair elections belong to the corpus of international human rights. Albeit a domestic matter, their conduct is addressed in the 1948 Universal Declaration of Human Rights (Art. 21) and other documents, including the Inter-Parliamentary Union's 1997 Universal Declaration on Democracy. Based on the premise that only periodic free and fair elections allow the

true expression of the political will of the people and the establishment of a legitimate government, all texts recognize the rights to vote, be elected and participate (directly or through chosen representatives) in public affairs – rights which cannot be effectively exercised in the absence of freedom of association, expression and assembly.

If international law does not formally recognize a legal right to a representative democratic government, it prescribes that an election should reflect the true will of the people through the respect of a number of well-defined basic human rights and in conformity with basic election standards mentioned in the definition of the concept proposed above.

It was only in October 2005 that, at the joint initiative of the United Nations Electoral Assistance Division (UNEAD) and two American NGOs (the Carter Center and the National Democratic Institute - NDI), a Declaration of Principles for International Election Observers and a companion Code of Conduct were framed.

The 2005 Declaration offers the first ever universal definition of international election observation in the following terms: "the systematic, comprehensive and accurate gathering of information concerning the laws, processes and institutions related to the conduct of elections and other factors concerning



## ...IN THE PRESS...

### Polls will be held on time in transparent manner: Musharraf

President Pervez Musharraf has said that general elections will be held as scheduled in a free and transparent manner and he would in no way influence the results. Talking to Inter-Parliamentary Union President, Pier Ferdinando Casini, who called on the President at his office, Musharraf said democracy is being promoted at the grass-roots level. Senate Chairman Mohammedmian Soomro was also present at the meeting. According to sources, the promotion of cooperation between the IPU and Pakistan was discussed at length at the meeting. President Musharraf briefed the IPU President on the initiatives taken by his government for the promotion of democracy and said the election would be held on time in a free and transparent manner. He added that he would in no way influence the general elections and all international observers, including the IPU, would be welcome to oversee them.

**Daily Times (Pakistan) - 4 May 2007**

the overall electoral environment; the impartial and professional analysis of such information; and the drawing of conclusions about the character of electoral processes based on the highest standards for accuracy of information and impartiality of analysis".

Observation is now expected to take place if four preconditions are met. First, the country holding an election must issue a formal invitation sufficiently in advance to allow adequate observation planning. Indeed, when not foreseen by a peace accord or the mandate of a United Nations peacekeeping operation, the observation of electoral consultations is, according to an established practice, triggered by a request – which is facultative, except in the OSCE area where States are committed, under § 8 of the Copenhagen Document, to invite observers from other OSCE participating States as well as any NGOs wishing to do so.

Second, the host State must guarantee the safety and full freedom of International Election Observation Mission (IEOM) agents (official accreditation, unimpeded access to all persons and technologies involved in the election process, freedom of movement around the country, freedom to publish findings and recommendations, etc.), possibly in a memorandum of understanding.

Third, IEOMs have to seek acceptance of their presence by all major political competitors. Fourth, no IEOM will be

sent to a country where its presence could be interpreted as giving legitimacy to an obviously predictable undemocratic electoral consultation. OSCE's sophisticated approach to the matter is, here, worth mentioning: once assurances are obtained from the inviting State, the Office for Democratic Institutions and Human Rights (ODIHR) establishes a Needs Assessment Mission to evaluate whether conditions exist to allow a credible free and fair election; in case of positive assessment, a full-fledged IEOM is deployed to observe the whole election cycle; if major inconsistencies are detected, there will be a limited-size mission which will leave the country before election day; when the conditions for a democratic election are obviously inexistent, no observation will take place.

### Relevance to peacebuilding

Alongside disarmament, demobilization and reinsertion of former combatants in civil society (DDR), socio-economic reconstruction, return and reintegration of refugees and displaced persons, democratic governance, transitional justice, etc., free and fair elections are part and parcel of peacebuilding programmes. As such, they serve three main functions. First, given that elections can be tainted by multiple forms of frauds (ballot-box stuffing, voter intimidation, etc.), the presence of international observers can

deter electoral misconduct, encourage voter participation and guarantee the establishment of a government bearing the seal of political legitimacy. Second, elections are expected to trigger a process of sustainable peace by paving the way for democratic governance and fostering national reconciliation. Third, they signal the closing phase of the latter (just as DDR normally constitute its starting point), while also providing – under the guise of an "exit strategy" – a convenient alibi for a hasty international disengagement.

Since the end of the Cold War, the United Nations has deployed many peacekeeping operations, including an electoral component mandated to supervise the conduct and regularity of free and fair elections, especially in Africa (Angola, Burundi, Central African Republic, Congo, Côte d'Ivoire, Liberia, Mozambique, Namibia and Sierra Leone) and the Americas (El Salvador and Haiti). The OSCE played a similar role in relation to post-conflict consultations in Albania, Croatia, Macedonia and Tajikistan. In the exceptional cases where both institutions assumed the responsibility for the direct organization of elections (in Cambodia, Croatia and East Timor for the UN, and in Bosnia and Herzegovina and Kosovo for the OSCE), they abstained from supervision – lest to appear as a judge and party – in favour of third-party intergovernmental actors.

A number of those consultations did contribute, at various degrees, to civil peace and stabilization: this was the case in Albania, El Salvador, Macedonia, Mozambique and Namibia. Others produced, as in Cambodia, Kosovo and Liberia, a superficial or short-lived normalization.

Indeed, an initial post-conflict free and fair election represents just a preliminary step to put democracy right on track.

It is a starting point of a basically symbolic nature, which cannot guarantee the further nurturing, let alone the creation, of democracy from scratch.

## PARLIAMENTARY DEVELOPMENTS

### BHUTAN

On 21 April and 28 May, mock elections to the new 75-member National Assembly were held in two rounds in order to familiarize citizens with the first ever nationwide parliamentary elections scheduled for 2008. In the "primary round" (first round), Bhutanese over 18 years of age voted for the political party of their choice. In the "general election" (second round), the two political parties with the highest number of votes in the primary round, the Druk Yellow Party and the Druk Red Party, fielded their candidates. The Druk Yellow Party won a landslide victory, winning in 46 of the 47 constituencies.

Bhutan will establish a bicameral parliament composed of the National Assembly and the National Council (upper chamber), based on the draft Constitution presented by the King Jigme Singye Wangchuk in March 2005. This constitution will be adopted by the new parliament in 2008 and replace a royal decree of 1953 giving the monarch absolute power.

Elections to the 25-member National Council are due to be held in autumn 2007. Once the National Council elections are announced, the nine-member Royal Advisory Council (the highest advisory body in the Kingdom) will be dissolved together with the current unicameral 150-member National Assembly.

### ECUADOR

A political crisis started in February 2007 when President Rafael Correa announced his intention to hold a referendum on the creation of a constituent assembly that would rewrite the Constitution. Fifty-seven parliamentarians who opposed the move were dismissed by the Supreme Electoral Tribunal (TSE) on 7 March. They were replaced by substitute members on 20 March. The members who were removed from office subsequently appealed to the Supreme Court to annul the decision.

On 15 April 2007, 81.72 per cent of voters approved the referendum. The Constituent Assembly will be tasked with drafting a new constitution within 180 days, starting from November 2007. On 23 April, following an appeal lodged by the dismissed members of the Congress, the Supreme Court invalidated the TSE's decision and ordered that 50 of the 57 members be reinstated. On the following day, the Congress voted to dismiss Constitutional Court judges who were appointed in February 2006. The Congress insisted that the judges' four-year term of office had expired in January 2007, taking into account the term

served by their predecessors, who themselves had been dismissed in April 2005. Human right activists criticized the Congress for undermining the independence of the judiciary based on its disagreement with the judicial decision.

### EGYPT

On 26 March 2007, a referendum approved 34 constitutional amendments with a 75.9 per cent affirmative vote. The amendments, which were passed by Parliament only a week before, granted the President and the ruling party the power to dissolve Parliament and empowered the Independent Commission to supervise elections. They also ban any religious-based political parties such as the Muslim Brotherhood (MB), an Islamic group established in 1928, from participating in elections. MB-backed candidates had won 88 of 454 seats in the 2005 elections to the People's Assembly. In the short time between the parliament's approval of the amendment and the referendum, many citizens were reportedly left uninformed. Although the official turnout was 27 per cent, many human rights activists said that the real figure should be much lower, considering the many empty polling stations.

### JAPAN

On 14 May 2007, following the approval of the House of Representatives (lower chamber), the House of Councillors (upper chamber) approved a bill on the procedures for a referendum to amend the Constitution, which had been submitted by the ruling coalition in May 2006. The bill, which will come into



This photo was taken on the occasion of the 60th Anniversary of the Constitution of Japan in May 2006, when the House of Representatives organized a special open day.



force in three years, is considered as the first step to revise the 1947 Constitution. The current Constitution provides that constitutional amendments, initiated by Parliament by a two-third majority vote from each chamber, will need to be adopted by a referendum by a majority vote. However, no legislation had stipulated the procedure of the referendum. Under the new law on the referendum, Japanese citizens over 18 years of age are eligible to vote. The minimum turnout requirement to validate the referendum proposed by opposition members was not included.

### **KAZAKHSTAN**

On 22 May, President Nursultan Nazarbayev signed into law constitutional amendments, which had been adopted by an overwhelming majority at a joint session of both Houses of Parliament on 18 May. The amendments increase the membership of the Majlis (lower house) from 77 to 107, whose members will be elected under the party-list system. The Senate will have eight more members, bringing the total to 47. These members will be selected with the consent of the Assembly of the People of Kazakhstan, a group representing the various ethnic groups in Kazakhstan. The amendments also grant de facto an unlimited term of office to the incumbent President Nursultan Nazarbayev, to whom the two-consecutive-term limit will not apply. Mr. Nazarbayev, who has been President since 1991, has already been elected twice under the 1995 Constitution, which allowed only two consecutive terms. Following the 2007 amendments, he is allowed to run for the next presidential elections scheduled for 2012, for a third term under the same Constitution. The term will be shortened from seven to five years.

### **MAURITANIA**

On 14 May, members of the National Assembly and the Senate were officially sworn in, thus re-establishing the Parliament, which had been suspended by the military coup in August 2005.

### **ROMANIA**

On 19 April, Parliament voted to suspend President Traian Basescu from office for his "unconstitutional conduct" by 322 to 108 votes, thus paving the way for a referendum to impeach him. The President's suspension had been proposed by the leftist opposition Party of Social Democrats (PSD), which blamed him in particular for political instability and for putting pressure on the judiciary. The Constitutional Court considered this charge to be "groundless". Mr. Basescu belonged to the Democratic Party, which had left the ruling Justice and Truth Alliance in early

April 2007. Analysts considered the impeachment move part of the ongoing political struggle in Parliament.

In the referendum held on 19 May 2007, Romanians rejected the proposal to impeach the President by a 74.48 per cent vote. Of the 18 million registered voters, 44.35 per cent turned out at the polls. On 23 May, the Constitutional Court reinstated Mr. Basescu as President. Mr. Nicolae Vacaroiu, who had served as acting President, resumed the post of Senate President.

### **THAILAND**

On 26 April 2007, the Constitutional Drafting Council (CDC), appointed by the Constitutional Drafting Authority, itself established by the military junta known as the Council for National Security (CNS), presented the first draft of the new constitution. Among other provisions, it stipulates that the new 160-member Senate would be appointed by the King, and should not be directly elected as was the case between 2000 to 2006. The draft also proposes to reduce the statutory number of members of the House of Representatives from 500 to 400; of whom 80 would be elected under the proportional representation system. The CDC is due to present the final draft constitution on 6 July. It will need to be adopted by a referendum scheduled for 19 August 2007.

### **...IN THE PRESS...**

#### **MPs from around the world call for action against small arms**

A total of 640 million small arms and light weapons are in circulation around the world, hence the urgent need to take action against their spread, said the MPs gathered in Bali for the 116th Assembly of the Inter-Parliamentary Union (IPU) as they launched a publication entitled *Missing pieces: A guide for reducing gun violence through parliamentary action*. Considering those statistics to be "damning" - with 60 per cent of the arsenal in the hands of private individuals - the parliamentarians estimated that the voluntary or involuntary use of small arms and light weapons "takes between 200,000 and 270,000 lives in countries at peace through homicide or suicide alone". According to the IPU, that figure represents five times more than the number of deaths directly caused by firearms in situations of war. Recent dramatic events have underscored the urgent need to take measures, said the MPs, referring to the recent shootings at Virginia Tech in the USA, where a South Korean student killed 32 students and a professor before taking his own life.

**Agence France Presse (AFP) - 30 April 2007**

## IPU-WTO COOPERATION

### Legislators urge WTO negotiators to facilitate an agreement

The IPU and the European Parliament urge World Trade Organization members - and in particular the United States, the European Union and the G20 developing countries - to show political will and take the necessary steps to identify possible concessions urgently.

Legislators meeting at the *House of Parliaments* in June met the WTO Director-General, Mr. Pascal Lamy, who addressed a session of the Steering Committee of the Parliamentary Conference on the WTO. According to Mr. Lamy, since the last Parliamentary Conference on the WTO held in December 2006, developing countries have insisted that there was no way for them that this Round could fail. "For them, updating the international trade rules is a necessity. The reason why we restarted the negotiations was not technical, it was political", explained Mr. Lamy.

"We are at a stage where the thinking within the WTO membership is that we are probably reaching a crossroads. They think that something should and might happen sometime before the summer break. Is this the conclusion of the Round? No. The conclusion of the Round will only happen when each and every topic which was put in the bag of the negotiations when it was launched at the end of 2001 will be agreed".

"We undertake to ensure parliamentary backing for the conclusion of a real Development Round", concluded the Steering Committee members, after their meeting with the WTO Director-General.

The Parliamentary Conference on the WTO is a joint undertaking of the IPU and the European Parliament. Its principal objective is to enhance the external transparency of the WTO and make this intergovernmental organization accountable to legislators as the elected representatives of the people.



WTO Director-General Pascal Lamy addresses the session of the Steering Committee of the Parliamentary Conference on the WTO

Photos IPU/Ballin

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The World of Parliaments,  
IPU Quarterly Review is  
an official publication of  
the Inter-Parliamentary  
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Printed at Sadag SA - France  
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### Recent IPU Publication

#### Annual Session of the Parliamentary Conference on the WTO

This illustrated booklet reports on the work of the Geneva 2006 session of the Parliamentary Conference on the WTO - a joint undertaking of the IPU and the European Parliament. It includes speeches at the inaugural session, discussion papers, excerpts of the debate, and the text of the Declaration adopted at the end of the session.

