



This template was prepared by the Public International Law and Policy Group in cooperation with American University and is made possible by a grant from the Carnegie Corporation of New York.

Prepared by:
Halim Kanaan
Christeen Nasrallah
Regina Schowalter
Tim Watkins
Jason Bordoff

ELECTIONS: THE PROMOTION OF CREDIBLE ELECTIONS IN PEACE AGREEMENTS

Table of Contents

<u>Section One:</u>	Objectives for Promoting Credible Elections Elements for a Successful Agreement Index of Agreements
<u>Section Two:</u>	Discussion of Elections Provisions in Existing Peace Agreements
<u>Section Three:</u>	Summaries of Relevant Elections Provisions
<u>Section Four:</u>	Excerpts from Relevant Peace Agreements

Section One: Objectives for Promoting Elections

The primary objective of promoting credible elections in peace agreements is to create a responsive and representative government of the people. Credible elections are a key ingredient to encouraging the development of a process for democratization in post-conflict societies.

Countries emerging from conflict face a unique opportunity in writing provisions in a peace agreement for how to structure their electoral systems. Electoral systems are rarely chosen deliberately with thought given to the particular needs and cultures of a given society. More often they are simply inherited. In writing peace agreement provisions for elections, post-conflict nations have the opportunity to think carefully about what type of electoral systems and institutions will best promote their own goals with respect to democratization. It is also increasingly being recognized that an electoral system can help engineer cooperation and accommodation in a divided society.

The decision about what kind of political system to choose for a given society is discussed in more detail elsewhere in this handbook. What kind of political system the parties choose determines what people will then vote for in the elections—whether it is for president or parliament, a unicameral or bicameral legislature, or even the constitution itself. The nature of the conflict will determine whether the peace agreement makes provisions for national or local elections, or both. If the conflict was a country-wide struggle, the agreement may provide for national elections (e.g., Kosovo, Lebanon); if the struggle was limited to a particular region, the agreement may provide for local elections (e.g., Chiapas).

While the parties to different peace agreements may choose different electoral systems, it is imperative in any case that the agreement provide for genuine elections that allow the means for citizens to express their political will. Popular will is recognized by the Universal Declaration of Human Rights as the basis for a legitimate government's authority. According to the National Democratic Institute, genuine elections must ensure, among other things, that the electorate is (i) free to make political choices without intimidation; (ii) adequately informed about the electoral contestants; (iii) believes that its choices will be respected; and (iv) able to enjoy freedom of expression and association. In addition, the media must be able to operate freely and the electoral administration must be both impartial and effective.

In order to promote genuine elections, most peace agreements provide for the involvement of the international community in monitoring elections to ensure they are conducted fairly and openly and that parties abide by the results. International involvement, when possible, in developing electoral systems and conducting elections ensures that the short-term political interests of the parties involved do not obscure the longer-term consequences of particular choices.

At the same time, the international community has in recent years increasingly recognized the importance of including domestic nonpartisan observers in the election process. This stems from the fact that international observers tend to stay for short periods of time and often do not speak the local language or understand the local culture as well as its local citizens do.

The requirements discussed above for genuine elections raise numerous questions about how much involvement is necessary, how long it should continue, how much weight to assign to each element and how extensive domestic involvement should be. Existing peace agreement provisions for elections have not attempted to answer all of these questions. Rather, they have tended to focus on general principles for genuine elections and call on the international community to assist the parties in achieving that aim. The international community has, and should, then use those broad principles as a road map in determining how best to carry out its role in each particular situation.

Elections: Elements for a Successful Agreement

Author's Note: Many of the elements in peace agreements regarding the promotion of credible and successful elections are unique to the particular situation. Nonetheless, it is possible to identify certain key elements that are common to most peace agreements. The determination of which elements should be included and what types of democratic structures to create must be based on a case-by-case analysis.

1. Creation of Election Commission

Peace agreements generally provide for the establishment of an election commission to coordinate and organize elections. Most often, the international community has either selected or heavily influenced the composition of the election commission. Yet where international involvement has been minimal, the election commission has been chosen by the government, usually after consultation with the other parties to the agreement. Sometimes a transitional government also serves as the election commission.

2. Responsibilities of Election Commission

The election commission's primary function is to supervise and ensure the fairness of the elections. Toward this goal, the election commission may be assigned specific duties to organize the election process, supervise the casting of ballots and verify the election's results.

3. Timing of Elections

Many peace agreements contain specific language indicating either a date or a timeframe within which elections must be held. Specifying a timeframe for elections makes it more difficult for the party in control of the government to ward off challenges by simply declining to hold elections. On the other hand, specifying a specific timeframe may be a disadvantage if the parties fail to meet that schedule. Ultimately, the decision about how specific to be rests with the parties and should be based on a realistic assessment of how likely it is that elections can be carried out in the proposed timeframe.

4. International Observers

Separate and apart from the international community's involvement in the creation of an election commission, most peace agreements also

provide for the assistance of international monitors to verify the election process. International observers enhance the stability of the election process and lend credibility to the election's outcome by verifying with impartiality that the elections were free and fair.

5. Subject Matter of the Ballot

What government positions and bodies people actually vote for is largely determined in the constitutional process of selecting a political system. Most nations have either a majoritarian or proportional representation system, or some combination of the two. The decision about what type of system to adopt has important implications for how much representation different minority groups enjoy in the government. Peace agreements should be structured so that the voting system gives a voice to the full population to the fullest extent possible, including women and traditionally underrepresented groups. Although sensitive consideration must be given to local cultures and traditions, the right of every individual to take part in government, directly or through elected representatives, is recognized explicitly by the Universal Declaration of Human Rights.

6. Localized Elections

In order to ensure that all citizens have equal access to the ballot in elections, it is important that provisions be made to conduct elections in local communities, both urban and rural, throughout the country. Many peace agreements include provisions that specifically require local polling stations to be created.

7. Transparent Elections and Campaigns

Ensuring transparent election processes requires accountability, ensures that people retain confidence in the integrity of the election system and enhances the legitimacy of elected leaders. Transparency requirements could include disclosing campaign spending, informing people about the processes for ballot distribution and vote counting, notifying people about party activity and decision making, and publicizing election results.

8. Secret Balloting

Secret balloting increases the legitimacy of the electoral outcome. Providing for secret ballots mitigates the potential for corruption and

the exerting of inappropriate influence in balloting centers by enabling voters to cast their ballots without fear of retribution.

9. Voter Registration

Including provisions for the registration of voters ensures widespread voter participation and minimizes the potential for corruption by preventing individuals from stuffing the ballot box with many votes or from using false identities to vote. The procedures for how to register voters are not usually specified in peace agreements, but rather assigned as a responsibility to the election commission. Voter registration should conform to international standards, and methods of voter registration should not be costly as to disenfranchise voters (i.e. requiring photographs where citizens cannot afford having their photographs taken).

10. Civic Education

Some peace agreements include provisions designed to educate the populace on the electoral process and the major issues facing the nation. Civic education is particularly important where the population is generally uninformed as to these issues. Peace agreements generally do not specify how such civic education campaigns will be conducted but may assign responsibility for such a campaign to the election commission.

11. Free and Open Media

Not all peace agreements include provisions for a free and open media. However, democracies rarely run smoothly without the freedom of the press. During elections, it is vital that some mechanism is established to guarantee equal access to the press for all political candidates, regardless of income levels. Because a free and open media is also a useful tool in the promotion of civic education (see above), parties should consider incorporating the provisions of the Universal Declaration of Human Rights regarding free press into their peace agreements.

12. Transfer of Power

Most peace agreements are silent as to the modalities for the transfer of power following an election. Nonetheless, such arrangements may help facilitate a smooth and peaceful transition to the newly elected government.

Index of Agreements

Author's Note: The following is a list of the agreements used throughout this guide that provide precedent language for each of the elements listed above. The agreements will be referred to throughout this guide according to the name in parentheses listed after the full name of each agreement.

1. AFGHANISTAN, Agreement On Provisional Arrangements In Afghanistan Pending The Re-Establishment Of Permanent Government Institutions, December 5, 2001. (Afghanistan Agreement)
2. ANGOLA, Lusaka Protocol, November 15, 1994. (Angola Agreement)
3. BOSNIA AND HERZEGOVINA, General Framework Agreement for Peace in Bosnia and Herzegovina, December 14, 1995. (Bosnia and Herzegovina Agreement)
4. BURUNDI, Arusha Peace And Reconciliation Agreement For Burundi, August 28, 2000. (Burundi Agreement)
5. CAMBODIA, Agreement on the Comprehensive Political Settlement of the Cambodia Conflict, October 23, 1991. (Cambodia Agreement)
6. CHIAPAS (MEXICO), San Andrés Larráinzar Agreements, December 16, 1996. (Chiapas Agreement)
7. CROATIA, The Erdut Agreement, November 12, 1995. (Croatia Agreement)
8. EAST TIMOR, Agreement between the Republic of Indonesia and the Portuguese Republic on the Question of East Timor, May 5, 1999. (East Timor Agreement)
9. GUATEMALA, Agreement on Constitutional Reforms and the Electoral Regime, December 7, 1996. (Guatemala Agreement)
10. KOSOVO, Interim Agreement for Peace and Self-Government in Kosovo, March 23, 1999. (Kosovo Agreement)
11. LEBANON, The Taef Agreement, October 22, 1989. (Lebanon Agreement)
12. MACEDONIA, Framework Agreement, August 13, 2001. (Macedonia Agreement)
13. MOZAMBIQUE, General Peace Agreement for Mozambique, October 4, 1992. (Mozambique Agreement)
14. SIERRA LEONE, Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone, July 7, 1999. (Sierra Leone Agreement)

Section Two: Discussion of Elections Provisions in Existing Peace Agreements

Author's Note: This section describes in detail each of the components of the election process discussed above in Section One, including actual language addressing each component taken from existing peace agreements, as well as model language suggestions for drafting provisions in future peace agreements.

1. Election Commission

Author's Note: Most peace agreements provide for the creation of an election commission to supervise the detailed aspects of the elections (the specific responsibilities of election commissions are discussed in the next section). In some cases, the agreement may call on the international community to assist in creating the election commission. In others, the agreement may authorize the domestic government to create the election commission. The decision about how much international assistance is appropriate is specific to each case. Heavy international involvement brings expertise and impartiality, but does not necessarily foster the creation of stable long-term domestic institutions. Minimal international involvement, by contrast, bolsters local capabilities, but risks the appearance of corruption if people perceive the election commission as manipulating the rules of the game in favor of the ruling party.

In rare cases, the transitional government, rather than an independent election commission, may supervise the election. If the international and domestic communities have enough confidence in the neutrality of the transitional government, free and fair elections are possible. The elections in Croatia, for example, turned out to be a success when the transitional government organized the elections. Although the international community created the transitional government in Croatia, ceding supervision of elections to the transitional government still minimized international control of the election process.

Kosovo Agreement

The Parties request the [Organization for Security and Co-operation in Europe (OSCE)] to adopt and put in place an elections program for Kosovo and supervise elections as set forth in this Agreement.

The Parties request the OSCE to supervise, in a manner to be determined by the OSCE and in cooperation with other international organizations the OSCE deems necessary, the preparation and conduct of elections for:

- (a) Members of the Kosovo Assembly;
- (b) Members of Communal Assemblies;
- (c) other officials popularly elected in Kosovo under this Agreement and the laws and Constitution of Kosovo at the discretion of the OSCE.

The Parties request the OSCE to establish a Central Election Commission in Kosovo (“the Commission”).

The Commission shall consist of a person appointed by the Chairman-in-Office (CIO) of the OSCE, representatives of all national communities, and representatives of political parties in Kosovo selected by criteria to be determined by the Commission. The person appointed by the CIO shall act as the President of the Commission. The rules of procedure of the Commission shall provide that in the exceptional circumstance of an unresolved dispute within the Commission, the decision of the President shall be final and binding.

Mozambique Agreement

[F]or the purpose of organizing and conducting the electoral process, the Government shall set up a national elections commission, composed of individuals whose professional and personal qualities afford guarantees of balance, objectivity and independence *vis-a-via* all political parties.

Burundi Agreement

An Independent National Electoral Commission constituted in conformity with the provision of article 20 of the present Protocol shall guarantee the freedom, impartiality and independence of the electoral process.

Sierra Leone Agreement

In reconstituting the National Electoral Commission, the President shall consult all political parties and movements including the RUF/SL to determine the membership and terms of reference of that Commission, paying particular attention to the need for a level playing field in the nation's electoral politics.

Croatia Agreement

[E]lections for all local government bodies, including for municipalities, districts, and counties, as well as the right of the Serbian community to appoint a joint Council of municipalities, shall be organized by the Transitional Administration.

MODEL INTERNATIONAL ELECTION COMMISSION LANGUAGE:

The parties request that the international community establish an Election Commission to supervise the preparation and conduct of elections. The Election Commission shall consist of persons appointed by the international community.

MODEL DOMESTIC ELECTION COMMISSION LANGUAGE:

The government shall establish a national Election Commission to supervise the preparation and conduct of elections. The Election Commission shall be comprised of individuals [selected by the government] [who represent all political parties and movements, including [specify political parties]].

MODEL TRANSITIONAL GOVERNMENT ELECTION COMMISSION LANGUAGE:

The Transitional Government shall create an Election Commission to supervise the preparation and conduct of elections. The Election Commission shall be comprised of individuals [selected by the

government] [who represent all political parties and movements, including [specify political parties]].

2. Responsibilities of Election Commission

Author's Note: Peace agreements generally do not specify the particular details of how elections will be conducted, such as how to register voters, resolve disputes, distribute ballots and accredit observers. Given the wide range of issues to resolve in peace agreements, reaching agreement about such a level of detail is often impractical. Instead, peace agreements often assign responsibility for working out such details to the election commission. The excerpts below provide examples of the kinds of specific responsibilities often assigned to the election commission.

Bosnia and Herzegovina Agreement

1. Rules and Regulations. The Commission shall adopt electoral rules and regulations regarding: the registration of political parties and independent candidates; the eligibility of candidates and voters; the role of domestic and international election observers; the ensuring of an open and fair electoral campaign; and the establishment, publication, and certification of definitive election results. The Parties shall comply fully with the electoral rules and regulations, any internal laws and regulations notwithstanding.

2. Mandate of the Commission. The responsibilities of the Commission, as provided in the electoral rules and regulations, shall include:

- a. supervising all aspects of the electoral process to ensure that the structures and institutional framework for free and fair elections are in place;
- b. determining voter registration provisions;
- c. ensuring compliance with the electoral rules and regulations established pursuant to this Agreement;
- d. ensuring that action is taken to remedy any violation of any provision of this Agreement or of the electoral rules and regulations established pursuant to this Agreement, including imposing penalties against any person or body that violates such provisions; and

e. accrediting observers, including personnel from international organizations and foreign and domestic non-governmental organizations, and ensuring that the Parties grant accredited observers unimpeded access and movement.

Kosovo Agreement

1. The Commission shall adopt electoral Rules and Regulations on all matters necessary for the conduct of free and fair elections in Kosovo, including rules relating to: the eligibility and registration of candidates, parties, and voters, including displaced persons and refugees; ensuring a free and fair elections campaign; administrative and technical preparation for elections including the establishment, publication, and certification of election results; and the role of international and domestic election observers.

2. The responsibilities of the Commission, as provided in the electoral Rules and Regulations, shall include:

(a) the preparation, conduct, and supervision of all aspects of the electoral process, including development and supervision of political party and voter registration, and creation of secure and transparent procedures for production and dissemination of ballots and sensitive election materials, vote counts, tabulations, and publication of elections results;

(b) ensuring compliance with the electoral Rules and Regulations established pursuant to this Agreement, including establishing auxiliary bodies for this purpose as necessary;

(c) ensuring that action is taken to remedy any violation of any provision of this Agreement, including imposing penalties such as removal from candidate or party lists, against any person, candidate, political party, or body that violates such provisions; and

(d) accrediting observers, including personnel from international organizations and foreign and domestic non-governmental organizations, and ensuring that the Parties grant the accredited observers unimpeded access and movement.

4. The Commission shall enjoy the right to establish communication facilities, and to engage local and administrative staff.

MODEL ROLE OF ELECTION COMMISSION LANGUAGE:

The Election Commission shall adopt electoral rules and regulations regarding: the registration of political parties and independent candidates; the eligibility of candidates and voters; the role of domestic and international election observers; the ensuring of an open and fair electoral campaign; and the establishment, publication, and certification of definitive election results. The Parties shall comply fully with the electoral rules and regulations, any internal laws and regulations notwithstanding.

The responsibilities of the Election Commission, as provided in the electoral rules and regulations, shall include:

- a. supervising all aspects of the electoral process to ensure that the structures and institutional framework for free and fair elections are in place;
- b. determining voter registration provisions;
- c. ensuring compliance with the electoral rules and regulations established pursuant to this Agreement;
- d. ensuring that action is taken to remedy any violation of any provision of this Agreement or of the electoral rules and regulations established pursuant to this Agreement, including imposing penalties against any person or body that violates such provisions; and
- e. accrediting observers, including personnel from international organizations and foreign and domestic non-governmental organizations, and ensuring that the Parties grant accredited observers unimpeded access and movement.

The Election Commission shall enjoy the right to establish communication facilities, and to engage local and administrative staff.

3. Timing of Elections

Author's Note: Most peace agreements set forth a specific schedule according to which elections should be held. Providing a specific date by which to conduct elections is important because it gives all parties shared expectations and makes it more difficult for the party in control to retain power by postponing elections. As discussed in Section One,

however, specifying a specific timeframe may be a disadvantage if the parties fail to meet the proposed schedule. Ultimately, the decision about how specific to be rests with the parties and should be based on a realistic assessment of how likely it is that elections can be carried out in the proposed timeframe.

Macedonia Agreement

2.2. Parliamentary elections will be held by 27 January 2002. International organizations, including the OSCE, will be invited to observe these elections.

Kosovo Agreement

Consistent with Article IV of Chapter 5, the first elections shall be held within nine months of the entry into force of this Agreement. The President of the Commission shall decide, in consultation with the Parties, the exact timing and order of elections for Kosovo political offices.

Croatia Agreement

Not later than 30 days before the end of the transitional period, elections for all local government bodies, including for municipalities, districts, and counties, as well as the right of the Serbian community to appoint a joint Council of municipalities, shall be organized by the Transitional Administration.

MODEL TIMING LANGUAGE

Elections for [fill in name of body] shall be held no later than [fill in blank days after the signing of this agreement] [after the achievement of a specified milestone].

4. International observers

Author's Note: The majority of peace agreements call for the assistance of international observers or monitors to certify the election results. Normally, such agreements do not specify the exact role the observers should play. Rather the extent of the observers' involvement and their standards for verification of the elections are

often determined by the observers themselves. These decisions are generally made based on generally accepted principles among international organizations for how to conduct electoral observation.

Angola Agreement

Under the terms of articles 8 and 12 of Law 5/92, of 16 April 1992, the second round of the presidential elections will be organized by the competent Angolan State institutions, including the National Electoral Council, with the appropriate support, verification and monitoring of the United Nations, as well as the participation of international observers.

The United Nations shall certify by a formal declaration, after consulting the organ which succeeds the [Joint Politico-Military Commission (Comissão Conjunta Politico-Militar) (CCPM)], the fulfillment of all the indispensable requirements and all the requisite conditions for the holding of the second round of the presidential elections, especially those arising out of the fulfillment of all the obligations under the Lusaka Protocol.

Bosnia and Herzegovina Agreement

The participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place. They therefore invite observers from any other CSCE participating States and any appropriate private institutions and organizations who may wish to do so to observe the course of their national election proceedings, to the extent permitted by law. They will also endeavor to facilitate similar access for election proceedings held below the national level. Such observers will undertake not to interfere in the electoral proceedings.

Sierra Leone Agreement

The [National Electoral Commission (NEC)] shall request the assistance of the International Community, including the UN, the [Organization of African Unity (OAU)], [Economic Community of West African States (ECOWAS)] and the Commonwealth of Nations,

in monitoring the next presidential and parliamentary elections in Sierra Leone.

East Timor Agreement

The United Nations Secretary-General shall have the responsibility and authority to monitor and verify compliance with this Agreement. This authority includes monitoring the election of members of the Regional Council of People's Representatives of the SARET [Special Autonomous Region of East Timor] and verifying that such elections are free and fair. For this purpose, the United Nations Secretary-General may establish in the SARET such offices as he deems necessary which would operate within a specific time-frame to be further agreed upon between the United Nations and the Indonesian Government.

MODEL INTERNATIONAL OBSERVER LANGUAGE OPTION

1:

The parties invite observers from the international community and appropriate private organizations to provide support, verification, and monitoring of elections. The observers shall certify the elections by formal declaration after their completion.

MODEL INTERNATIONAL OBSERVER LANGUAGE OPTION

2:

The parties invite observers from the international community and appropriate private organizations to provide support, verification, and monitoring of elections. The observers from the international community shall establish such offices as and take whatever actions they deem necessary to monitor the elections and verify compliance with this Agreement.

5. Subject Matter of Ballot

Author's Note: In addition to providing for universal adult suffrage, most peace agreements specify the type of representative system to be created. There are many variants on democratic institutional design,

but in general countries either use a majoritarian system or a proportional representation system, or some combination of the two. In a majoritarian system (used in established democracies such as the United Kingdom, the United States, Canada, Australia, Botswana, and India), representation is based on geographic constituencies and voters directly elect a representative (either by majority or plurality vote). Proportional representation systems (used in the majority of established democracies including Austria, Israel, Costa Rica, Italy, and Colombia) come in many varieties, but in general voters tend to elect representatives by voting for parties in larger geographic areas. Some nations (e.g., Germany) used a combination of the two systems, electing some legislative seats by the majoritarian system and some by the proportional representation system.

As discussed elsewhere in this handbook, the choice of electoral system is complicated and depends upon the specific circumstances of each post-conflict country. The main argument for proportional representation is that it produces a legislature that more accurately represents the diversity of opinions and party preferences of the people. The main argument for a majoritarian system is that directly elected representatives provide greater accountability and stability. Especially in nations with deep ethnic rifts, great consideration must be given to whether minority groups would be better served by a more diverse legislature or by having their own representative in a majoritarian district.

Any of the electoral systems described above can also be used at the local level. Yet due to the very direct role local government plays in people's lives, geographic representation is often given primacy in local elections. Thus single-member districts in a majoritarian system are often used to give every neighborhood a say in local affairs.

Burundi Agreement

1. There shall be elections for the National Assembly, which shall take place after the commune elections and before the election of the President. The National Assembly shall have 100 directly elected members. As an exceptional measure and for the purpose of the first election only, and only if one party has received more than **three-**

fifths of the directly elected seats, an additional 18 to 21 members in total shall be co-opted in equal numbers from the lists of all the parties that have obtained more than the threshold vote, or two persons per party if more than seven parties qualify.

2. The electoral system for the National Assembly shall be the system of blocked lists with proportional representation. The revised electoral code shall prescribe that lists be multi-ethnic in character and reflect gender representation. For each three names in sequence on a list, only two may belong to the same ethnic group, and for each five names at least one shall be a woman.

Mozambique Agreement

The Electoral Act shall provide for an electoral system based on the principle of proportional representation for election to the Assembly.

Cambodia Conflict

The Cambodian people shall have the right to determine their own political future through the free and fair election of a constituent assembly, which will draft and approve a new Cambodian Constitution in accordance with Article 23 and transform itself into a legislative assembly, which will create the new Cambodian Government.

Kosovo Agreement

Kosovo shall have an Assembly, which shall be comprised of 120 Members.

- (a) Eighty Members shall be directly elected.
- (b) A further 40 Members shall be elected by the members of qualifying national communities.
 - (i) Communities whose members constitute more than 0.5 per cent of the Kosovo population but less than 5 per cent shall have ten of these seats, to be divided among them in accordance with their proportion of the overall population.
 - (ii) Communities whose members constitute more than 5 per cent of the Kosovo population shall divide the

remaining thirty seats equally. The Serb and Albanian national communities shall be presumed to meet the 5 per cent population threshold.

Lebanon Agreement

Until the Chamber of Deputies passes an election law free of sectarian restriction, the parliamentary seats shall be divided according to the following bases:

- a. Equally between Christians and Muslims.
- b. Proportionately between the denominations of each sect.
- c. Proportionately between the districts.

Chiapas Agreement

In order to administer the municipalities, there will be councils elected by direct popular vote, as well as indigenous councils elected according to practices and customs, subject to their prior regulations and their incorporation into the electoral law currently in force in the State of Chiapas, which shall be defined when it is considered as an indigenous council.

MODEL PROPORTIONAL REPRESENTATION LANGUAGE:

The electoral system for the legislature shall be based on a system of proportional representation.

MODEL DIRECT REPRESENTATION LANGUAGE:

The electoral system for the legislature shall be based on a system of majoritarian representation in single-member districts.

MODEL HYBRID REPRESENTATION LANGUAGE:

The electoral system for the legislature shall be comprised partially [specify the number] of members who are directly elected and partially [specify the number] of members who are

elected by proportional representation [or specify some other election method according to local customs and practices as may be appropriate].

6. Localized Elections

Author's Note: Many peace agreements provide for ample local polling places to ensure widespread electoral participation. Given that citizens must be able to access a ballot box in order to participate in the democratic process, requiring local election facilities is a desirable element to include in peace agreements.

Burundi Agreement

Elections shall be organized impartially at the national, commune and *colline* levels and at other levels prescribed by the Constitution or by law.

Mozambique Agreement

The Government undertakes to assist in obtaining facilities and means so that [Resistencia Nacional Mocambicana (RENAMO)] may secure the accommodation and transport and communications facilities it needs to carry out its political activities in all the provincial capitals, and in other locations to the extent that the available resources so permit.

Guatemala Agreement

It is necessary to facilitate citizens' access to voting centres. To that end, the Parties propose that, based on the electoral rolls, the Supreme Electoral Tribunal, in consultation with political parties, should identify the places in which voting centres are to be set up within municipalities; such places would be those which have large numbers of residents living a long way from the municipal capital and which are also accessible to party poll-watchers and electoral observers. Voting centres should correspond to a municipal electoral district with its own electoral roll, thereby avoiding any problems which might otherwise arise from having a common municipal electoral roll for all voting centres.

MODEL LOCAL ELECTION LANGUAGE

Elections shall be organized at the national and local levels. Local elections shall provide voting centers in locations that facilitate access to the polls for both citizens and for elections monitors.

7. Transparent Elections and Campaigns

Author's Note: Most peace agreements provide for transparent and open elections through the responsibilities they assign to the election commission, which is charged with ensuring the integrity of the election process. Some peace agreements call for transparency as an abstract principle to guide the election commission. Other agreements may specify that transparency should be promoted by requiring the disclosure of certain information or documents from parties and candidates, explaining to the public the processes for ballot distribution and vote counting, notifying people about party activity and decision making or publicizing election results.

Burundi Agreement

Elections shall be free, fair and regular in accordance with the electoral law and the law governing political parties.

...

An Independent National Electoral Commission constituted in conformity with the provisions of article 20 of the present Protocol shall guarantee the freedom, impartiality and independence of the electoral process.

Guatemala Agreement

In order to promote greater transparency in the presentation of candidates by assemblies of political parties, action should be taken to ensure that all party members are informed of the convocation and holding of the general assemblies of political parties. The Electoral Reform Commission could examine whether compliance in convoking and holding the assemblies of political parties might be verified as a matter of routine by

the National Registry or whether it would be useful to amend the law to enable the Supreme Electoral Tribunal to supervise effectively the convocation and holding of assemblies of political parties, as well as their results.

In order to ensure transparency in the financing of election campaigns and that voter preference is not supplanted by spending power, the Parties consider that the Supreme Electoral Tribunal should have the power to set a ceiling for campaign spending by each presidential candidate in the mass media. It is recommended that consideration be given to the possibility of providing and facilitating the use of media time and space free of charge for all parties on an equal footing.

Parties and candidates should be compelled to make available such accounting records and reports as may be required from them by the National Registry in order to verify that their sources of funding are lawful. The calculation of campaign spending should include, at market prices, any advertising donated to the parties during the election campaign.

Kosovo Agreement

The responsibilities of the Commission, as provided in the electoral Rules and Regulations, shall include:

the preparation, conduct, and supervision of all aspects of the electoral process, including development and supervision of political party and voter registration, and creation of secure and transparent procedures for production and dissemination of ballots and sensitive election materials, vote counts, tabulations, and publication of elections results.

MODEL TRANSPARENCY LANGUAGE OPTION 1:

The Election Commission shall be responsible for ensuring that all elections are free, fair, and transparent. The Election Commission shall adopt and implement procedures for monitoring elections. Official ballot results shall be made public.

MODEL TRANSPARENCY LANGUAGE OPTION 2:

The Election Commission shall be responsible for the preparation, conduct, and supervision of all aspects of the electoral process, including development and supervision of political party and voter registration, and creation of secure and transparent procedures for the production and dissemination of ballots and sensitive election materials, vote counts, tabulations, and publication of elections results.

MODEL TRANSPARENCY LANGUAGE (FINANCING):

Parties and candidate should be compelled to make available such accounting records and reports as may be required to verify that their sources of funding are lawful.

8. Secret Balloting

Author's Note: Most peace agreements provide for secret and personal balloting to mitigate the potential for corruption, intimidation or abuse. If people are able to cast ballots in secret, it is more difficult for a party to intimidate or threaten them for voting against that party.

Mozambique Agreement

The Electoral Act shall establish an electoral system which is consonant with the principles of the direct, equal, secret and personal ballot.

Bosnia and Herzegovina Agreement

The Parties shall . . . protect and enforce the right to vote in secret without fear or intimidation.

. . .

To ensure that the will of the people serves as the basis of the authority of government, the participating States will . . . ensure that votes are cast by secret ballot or by equivalent free voting procedure, and that they are counted and reported honestly with the official results made public.

MODEL SECRET BALLOT LANGUAGE:

The parties shall protect and enforce the right to vote in secret without fear of intimidation or retribution by guaranteeing that all voters have access to secret and personal ballots.

9. Voter Registration

Author's Note: Most agreements do not provide specific mechanisms according to which voters will be registered to vote. Rather, voter registration is usually included as one of the general responsibilities of the election commission. Given the many issues being negotiated in a peace agreement, it is impractical to expect parties to specify in detail how a complex logistical issue such as voter registration should be carried out; rather the election commission is created precisely to handle such logistics. At the same time, the Guatemala Agreement, excerpted below, is one example in which some detail was provided, namely requiring the issuance of voter identification cards to prevent fraud.

Bosnia and Herzegovina Agreement

2. Mandate of the Commission. The responsibilities of the Commission, as provided in the electoral rules and regulations, shall include . . . determining voter registration provisions;

Kosovo Agreement

1. The Commission shall adopt electoral Rules and Regulations on all matters necessary for the conduct of free and fair elections in Kosovo, including rules relating to: the eligibility and registration of candidates, parties, and voters, including displaced persons and refugees;

2. The responsibilities of the Commission, as provided in the electoral Rules and Regulations, shall include:

- (a) the preparation, conduct, and supervision of all aspects of the electoral process, including development and supervision of political party and voter registration.

Guatemala Agreement

Given that lack of reliable documentation is an obstacle to the implementation of the various phases of the electoral process, the Parties consider that it would be useful to introduce a single identity document, with a photograph of the holder, which would replace the present local identity card and which, as an identification document for all civil matters, would also serve for elections. Such a document would be issued by the Supreme Electoral Tribunal, through the National Registry. To this end, the appropriate reforms of the Elections and Political Parties Act and the Civil Code would be undertaken. As a contribution to the next general elections, it would be extremely important and useful for all citizens to use the new single identity document.

MODEL VOTER REGISTRATION LANGUAGE:

The Election Commission shall be responsible for adopting rules and regulations relating to the registration of eligible voters.

10. Promotion of Civic Education

Author's Note: Some peace agreements include provisions to promote civic education, which is important to ensure that citizens learn about the objectives, process and benefits of democratic elections. Agreements might assign responsibility for civic education campaigns to the Election Commission, the government or some other entity.

Angola Agreement

A civic education campaign of voters on the objectives of the second round of the presidential elections, the electoral process and the manner of casting the votes shall be conducted within the requisite time schedules and through the appropriate means.

Guatemala Agreement

The increasingly active participation of citizens in the electoral process is a guarantee of the legitimacy and representativeness of the elected authorities. This objective would be more easily achieved if ongoing campaigns to educate, motivate and inform citizens were carried out. The Electoral Reform Commission would examine the possibility of conducting information campaigns to:

- (a) Explain the importance of the right of citizens to vote and to be elected;
- (b) Encourage and promote the timely preparation of electoral rolls;
- (c) Provide information on how to vote, the documents to be presented at voting tables and centres and the hours during which voting takes place;
- (d) Provide information on how to organize civic committees or join a political party.

MODEL CIVIC EDUCATION LANGUAGE

The active participation of all citizens in the electoral process is important to promote democracy, legitimacy, and ensure that elected leaders represented the will of the governed. This objective would be more easily achieved if ongoing campaigns to educate, motivate and inform citizens about the benefits of the electoral process were carried out. Toward this end, the Election Commission shall conduct civic education campaigns to:

- (a) Explain the importance of the right of citizens to vote and to be elected;
- (b) Encourage and promote the timely preparation of electoral rolls;
- (c) Provide information on how to vote, the documents to be presented at voting tables and centres and the hours during which voting takes place; and
- (d) Provide information on how to organize civic committees or join a political party.

11. Free and Open Media

Author's Note: A free and open media requires not only a free press, but also that all political parties have equal access to the

media in order to communicate with the voters. Thus, peace agreements often include language to provide for both a free press and for free access to the press. In addition, recognizing the connection between a free press and an informed citizenry, peace agreements often require that the press publish the results of elections. The parties may agree to these provisions in the agreement, or the agreement may vest authority for ensuring the freedom of the press with the Election Commission.

Angola Agreement

Notwithstanding the inalienable freedom of the press, publication of the election results by the mass media as well as any statistical projections of the outcome of the final determination of the results, shall be in accordance with the provisions of the law.

Mozambique Agreement

The Commission shall have the following functions:

To draw up and have published in the national gazette (*Boletim da República*) the lists of the results of the final vote tally.

Bosnia and Herzegovina Agreement

The Parties shall . . . ensure freedom of expression and of the press.

. . .

To ensure that the will of the people serves as the basis of the authority of government, the participating States will . . . provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process.

MODEL FREE PRESS LANGUAGE (GENERAL):

The [parties] [government] [Election Commission] shall ensure the freedom of the press.

MODEL FREE PRESS LANGUAGE (ACCESS TO MEDIA):

To ensure that the will of the people serves as the basis of the authority of the government, the [parties] [government] [Election Commission] shall provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the political process.

MODEL FREE PRESS LANGUAGE (PUBLICATION OF ELECTION RESULTS):

To ensure that voters are informed about the election process and to promote electoral participation, all election results shall be published in the press.

12. Transfer of Power

Author's Note: Few peace agreements include specific language setting forth provisions regarding the transfer of power in societies emerging from conflict. Nonetheless, such language may be helpful to ensure a smooth and peaceful transfer of power. Responsibility for this may be assigned to the parties collectively or to the Election Commission.

Bosnia and Herzegovina Agreement

To ensure that the will of the people serves as the basis of the authority of government, the parties ensure that candidates who obtain the necessary number of votes required by law are duly installed in office and are permitted to remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures.

MODEL TRANSFER OF POWER LANGUAGE

To ensure that the will of the people serves as the basis of the authority of government, the [parties] [Election Commission] shall ensure that candidates who obtain the necessary number of votes required by law are duly installed in office and are permitted to remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures.

Section Three: Summaries of Agreements

AFGHANISTAN

Treaty: Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions

Date: December 5, 2001

The Afghanistan Agreement included the establishment of a 30-member Interim Authority, headed by Hamid Karzai, to govern the nation until the convening of an Emergency Loya Jirga, or grand council, to determine the future government of the country. The Agreement called for the assistance of the United Nations to create a census and to register voters. At the meeting of the Loya Jirga in June 2002, it elected Hamid Karzai to lead Afghanistan's Transitional Government until national elections are held in mid-2004. Although many delegates expressed dissatisfaction with the influence of warlords and the international community in the Loya Jirga, the gathering was the first representative meeting of Afghanistan's diverse population since 1987.

Following his appointment as President by the Loya Jirga, Karzai announced his selection of a new cabinet. The transition to democracy in Afghanistan is facing substantial challenges. The new government faces several pressing domestic challenges including expanding the limited reach of the central government, combating regional warlords, disarming local militias and clearing mines, drafting a new constitution and preparing for the elections scheduled for mid-2004.

ANGOLA

Title: Lusaka Protocol

Date: November 15, 1994

Angola's democratic development has been severely hampered by the continuation of its civil war, which is now in its third decade. An earlier Angolan peace agreement (1991) included a commitment to hold long promised general elections. In 1992 Angolans voted in presidential and legislative elections for the first time. Even though the United Nations certified the elections to be free of major fraudulent activities, the losing party, UNITA, refused to accept the results and the country slipped back into war.

As a remedy, the Lusaka Protocol called for a second round of presidential elections to be organized by the Angolan State institutions, including the National Electoral Council, with the appropriate support, verification and monitoring to be provided by the United Nations and international observers. Such international involvement was deemed necessary to guarantee public safety, public freedoms and commerce throughout the national territory. In accordance with the Lusaka Protocol, the United Nations monitored voter registration, which was set within a strict timeframe. The UN also participated in a campaign to educate voters. Following the elections, the UN issued a statement certifying that the election was free and fair. However, the Lusaka Protocol did not lead to peace in Angola. Fighting between rebels and the Angolan government resumed and continued until a nationwide cease-fire in 2002.

BOSNIA AND HERZEGOVINA

Treaty: The General Framework Agreement for Peace in Bosnia and Herzegovina

Date: November 21, 1995 (initialed in Dayton); December 14, 1995 (signed in Paris)

The Bosnia Agreement created a foundation for a representative government by requiring free, fair and democratic elections in a politically neutral environment. It included provisions to protect and enforce the right to vote in secret without fear or intimidation. The Agreement relied on the Organization for Security and Cooperation in Europe (OSCE) and other international organizations to certify that elections are effective and free of fraud. The Agreement allowed international observers to create an election regime and to supervise the preparation of local and national elections. Under the terms of the Agreement, the Election Commission was to adopt electoral rules and regulations, and be responsible for compliance with election regulations. The Agreement allowed for universal suffrage for persons over 18 years old. Finally, the Agreement required that voting take place in the home municipality (pre-conflict census location) in order to address the problem of displaced people.

Since the Bosnia Agreement was signed in 1995, Bosnia-Herzegovina has made demonstrable if uneven progress toward a stable political system along democratic lines. Multi-ethnic and pro-Dayton political parties have increased their participation at all levels of government. This promising

development, coupled with the increase in government competencies (such as election administration) and the admittance of Bosnia-Herzegovina into the Council of Europe, suggest that citizens and politicians are gradually establishing governments to combat challenges such as ethnic separations, youth emigration, corruption and economic stagnation.

General elections scheduled for October 2002, which were seen as a critical juncture in Bosnia-Herzegovina's post-war development, did not bring renewed support for the incumbent Alliance for Change government. Nationalist parties increased their representation in government and thus have mandates to form new local governments throughout the country. The election results were viewed as an indication of voter dissatisfaction with moderate political parties and the pace of reform.

BURUNDI

Treaty: Arusha Peace and Reconciliation Agreement for Burundi
Date: August 28, 2000

The Burundi Agreement created a National Electoral Commission to establish electoral rules and laws, the code of conduct and the technical details (e.g., schedule, location of voting stations, etc.). The Agreement called for free, fair and transparent local, national and presidential elections. People of all ethnic groups and both genders are allowed to participate. The Agreement set up a system of proportional representation through the National Assembly, which, in conjunction with the Senate, was to elect the first post-transitional President by a two-thirds vote. Under the Agreement, the National Electoral Commission must publish the election results as soon as they are available. Finally, the election provisions in the Agreement called for ethnic and gender diversity in voting lists: for each three names in sequence on a list, only two may belong to the same ethnic group, and for each five names, at least one must be a woman. Additionally the Agreement requests monetary and technical help from the international community.

Parties seem to be adhering to the Burundi Agreement. In an unprecedented historic moment and in accordance with the provisions of the Burundi Agreement, President Pierre Buyoya stepped down on April 30, 2003 and transferred power to his Hutu vice-president, Domitien Ndayizeye.

CAMBODIA

Treaty: Agreement on a Comprehensive Political Settlement of the Cambodia Conflict

Date: October 23, 1991

The Cambodia Agreement set up a system of proportional representation by calling for elections to be held on a provincial basis. Under the Agreement, each candidate for political office was required to be a member of a political party, which the Agreement stipulated may be formed by 5,000 votes. The Agreement provided for universal suffrage and secret ballots. The Agreement specifically called for the freedom of speech, movement, assembly and fair media access to all political parties. Elections were to be held under the auspices of the United Nations in a neutral political environment.

Cambodia's first self-administered national elections, held in June 1998, took place amid a climate of violence and intimidation. Coupled with flaws in the legal framework and lack of independent electoral authorities, this environment did not produce a genuinely competitive process.

In February 2002, Cambodia held its first local elections since the 1991 peace agreement was signed. While the general level of violence declined in comparison with the national elections of 1993 and 1998, the pre-election period was still marred by political killings, intimidation, voter coercion and vote buying. At the time of the drafting of this handbook, national elections are scheduled for July 27, 2003. In the run-up to those parliamentary elections, human rights groups have again documented a troubling list of rights violations. These include the government's continuing failure to investigate cases of political violence, arbitrary restrictions on public rallies and party meetings, unfair and unequal access to the broadcast media and numerous violations of the election law.

CHIAPAS (MEXICO)

Treaty: San Andrés Larráinzar Agreements

Date: February 16, 1996

As stated in the Conclusion to Document 1 of the San Andrés Larráinzar Agreements, the purpose of these Agreements was to address "the feeling in Mexican society that a new relationship between the State and society and the country's indigenous peoples was necessary." The Chiapas Agreements called for a fair and transparent electoral process based on indigenous

traditions. They established councils that are elected by direct popular vote to administer elections, according to indigenous custom and practice. The Agreements created mechanisms to guarantee proportionate representation of natives on civic election councils. They included a proposed amendment of the constitution to include legislation on the right of indigenous people to elect their own authorities according to their own rules. Finally, the Agreements had provisions guaranteeing participation by women.

Despite the 1996 Agreements, violence continued. In December 1997, 45 people were massacred in Acteal, Chiapas by members of an armed civilian group that supports the ruling party. The attacks took place within a context of government-supported or officially tolerated violence and widespread impunity. At the same time, supporters of the ruling party have also suffered attacks.

The July 2, 2000 national elections resulted in the victory of Vicente Fox of the PAN (National Action Party) and the first democratic transfer of presidential power between parties since the 19th Century. Recent electoral reforms in Mexico have also made it possible for opposition parties to challenge the seven decades of political dominance by the Institutional Revolutionary Party - PRI.

CROATIA

Treaty: The Erdut Agreement.

Date: November 12, 1995

The Croatia Agreement directed the United Nations to establish a transitional government to organize elections at all levels. International bodies were responsible for monitoring and verifying the elections. Overall, Croatia has enjoyed successful elections, yet public confidence in democratic institutions is still lacking.

Croatia has made great strides in its democratic development, beginning with the 2000 electoral defeat of the authoritarian Tudjman regime and continuing under the leadership of President Stjepan Mesic and Prime Minister Ivica Racan. Croatia became a member of NATO's Partnership for Peace program in 2000, has been in the process of completing the European Union Stabilization and Association Process (SAP) and recently submitted its application for EU membership. However, the public continues to lack confidence in—and support for—Croatia's governing institutions. People

generally do not believe that the government represents their interests and that being more politically engaged could better their lives. The effect of these concerns and the responsiveness of the political parties will be tested in upcoming parliamentary elections. The elections, expected to take place in fall of 2003, are seen as a critical juncture in Croatia's democratic development as they mark a crucial test of the governing coalition's mandate.

EAST TIMOR

Treaties: Agreement Between the Republic of Indonesia and the Portuguese Republic on the Question of East Timor; Agreement Regarding the Modalities for the Popular Consultation of the East Timorese Through a Direct Ballot

Date: May 5, 1999

The East Timor Agreements call for universal adult suffrage, giving the people the right to elect officials to represent them in the Regional Council of People Representatives. Once elected, these officials are to have legislative power and are expected to use this power to best serve the needs of the East Timorese people.

Following the May 1999 Agreement, a referendum on independence was held in August 1999. Prior to the referendum, militia loyal to Indonesia, apparently assisted by the military, tried in vain to use terror to discourage a vote for independence. When the referendum showed overwhelming support for independence, loyalists went on the rampage, murdering hundreds and reducing towns to ruins. An international peacekeeping force was needed to stop the violence. Subsequently, the United Nations Transitional Administration in East Timor (UNTAET) was established in October 1999 and mandated with preparing East Timor for self-government. With independence, UNTAET was replaced with the United Nations Mission of Support in East Timor (UNMISSET) to provide assistance to central administrative structures in the country.

In April 2002, Xanana Gusmao, a hero of the independence movement, won the presidential election with an overwhelming majority to become the country's first head of state.

GUATEMALA

Title: Agreement on the Definitive Ceasefire

Date: December 4, 1996

The Guatemala Agreement established an independent institution, the Supreme Electoral Tribunal, to safeguard the electoral process. The Tribunal was given the responsibility of promoting education and participation in the voting process, as well as providing easy access to voting centers. The Tribunal includes one representative from each party in order to achieve fair and balanced representation. The Agreement ensured authentic voter identification by calling for the issuing of a photographic voter identification card that could be presented at the polling station.

Since the Guatemala Agreement brought an end to decades of civil war, Guatemalans have faced many challenges in promoting democratic governance. A lack of political will has stalled the implementation of the Guatemala Agreement and hampered political, economic and social reform. Political parties and governments have not reached out to citizens nor effectively addressed the country's pressing problems. Citizens, particularly women and indigenous peoples, are largely removed from politics and disillusioned with the political process, leading to notably high rates of voter abstention. The November 2003 presidential elections will prove to be a critical test of Guatemalan democracy.

KOSOVO

Treaty: Interim Agreement for Peace and Self-Government in Kosovo

Date: February 23, 1999

The Kosovo Agreement created a Kosovo Assembly of 120 members. Under the Agreement, 80 members are elected directly and the remaining 40 are elected based on the national communities. The members of the assembly are democratically elected for a term of three years. Under the Agreement, members of parliament select, from among their ranks, executive leaders, a president and two vice presidents, representing all the major national communities. In addition, the Agreement recognized the existing communal borders. It provided that each commune have an assembly, executive council and administrative bodies and that each national community be proportionally represented in the communal assembly. All governmental responsibilities not expressly assigned elsewhere are the responsibilities of the communes.

The Kosovo Agreement's election provisions have largely been successful. In November 2001, Kosovo elected a new parliament. Political parties and civic groups worked together with the international community to engage the public in a peaceful process that culminated in the election of 120 members of the Central Assembly. In February 2002, the Assembly approved Kosovo's first elected government. A third election cycle for representatives to 30 municipal assemblies took place in October 2002.

LEBANON

Treaty: The Taef Agreement

Date: October 22, 1989

The Lebanon Agreement expanded the existing parliament to 108 seats, with the two major parent groups - the Christians and the Muslims - equally represented. The signatory parties appoint members to the expanded seats to be replaced in the national elections. The various subgroups are divided within the Christian and Muslim headings according to their affiliations. The Agreement specifies that, within each parent group, the subgroups must be proportionally represented. The elections themselves are to be free from sectarian restriction. The Agreement establishes that, upon the election of the national assembly, a senate will be formed to represent all national families, with its powers confined to crucial issues. The Agreement redefines the roles of the President, the Prime Minister and the Speaker of the House. Power shifts from the Christian president to the Sunni-Muslim Prime Minister and the Shia-Muslim Speaker of the House. Lebanon held parliamentary elections in 1996 and Gen Emile Lahhud was elected president in 1998.

MACEDONIA

Treaty: Framework Agreement

Date: August 13, 2001

Although a sense of crisis still dominated Macedonia throughout 2002, the signing of the Macedonia Agreement in August 2001 significantly reduced the level of violence between ethnic Macedonians and ethnic Albanians. The Macedonia Agreement set a specific date for national elections to be supervised by international organizations. Parliamentary elections were successfully held in September 2002, confirming the public's support both

for the Agreement and the political parties that promoted its vision for a united country.

The 2002 parliamentary contest was widely viewed as Macedonia's first truly fair election and resulted in a change of power in both the ethnic Macedonian and ethnic Albanian parties. The Social Democratic Party of Macedonia (SDSM) and Democratic Union for Integration (DUI) have formed a coalition government with the shared goal of implementing the Macedonia Agreement. The new government has introduced anti-corruption measures and announced a plan of action for implementation of the Agreement. In an encouraging sign, the new President of Parliament has stated that his goal is to strengthen parliament's legislative role and institutional capacity. Macedonia continues to face substantial challenges, yet the parliamentary elections seem to have created a new opportunity for the restoration of security and revitalization of the economy—two of the major challenges to democratization.

MOZAMBIQUE

Treaty: General Peace Agreement for Mozambique

Date: October 4, 1992

The Mozambique Agreement called for simultaneous Assembly and Presidential elections one year after the signing of the Agreement. It provided for the establishment of a national election commission and requested technical and material support from the United Nations and international observers. The Agreement required the registration of political parties and the submission of a list of candidates. Finally, the Agreement called for universal suffrage for everyone over 18 years old, directing electoral districts to be created by provincial boundaries.

Mozambique's peace agreement has largely been a success with regard to its election provisions. In December 1999 Mozambique held its second national elections. They were the most competitive elections Mozambique has ever experienced. The impression of both domestic and international monitors was that the balloting was well administered. However, there were some logistical problems and irregularities, particularly during the counting process. Though the balloting was generally applauded, the results were contested by the RENAMO-UE (Resistencia Nacional Mocambicana-Uniao Eleitoral) coalition, who alleged that significant fraud occurred in the

counting process. They demanded a recount or new elections and threatened the establishment of a parallel government. The government remained steadfast in its position that the elections were fair. The prolonged controversy over the election results has caused considerable tension and threatened to undermine substantial gains in the country's democratic development.

SIERRA LEONE

Treaty: Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone 1999.

Date: 1999.

The Sierra Leone Agreement created a national election commission, which may seek international assistance and whose members are selected by both the government and the rebel group. Under the Agreement, the elections are to be carried out in accordance with the constitution. In the event of a conflict between the provisions of the Agreement and the constitution, the Agreement governs. The Agreement also amended the constitution to guarantee equitable representation.

In May 2002, Sierra Leone conducted remarkably peaceful elections that resulted in a landslide victory for President Ahmad Tejan Kabbah's Sierra Leone People's Party. One local election monitoring organization reported that "there were no systematic or serious electoral malpractices/irregularities that compromised the outcome of the results." At the same time, incidents such as a recent cross-border incursion led by Liberian rebels and an attack on military barracks in Freetown indicate an underlying fragility and unstable political environment. As part of the country's efforts to repair its social infrastructure, a Truth and Reconciliation Commission has been created, as well as a Special Court that has issued war crime indictments against leaders including rebel leader Foday Sankoh and Liberian President Charles Taylor.

Section Four: Sample Comprehensive Agreements

Author's Note: The excerpts from the following two agreements, from Burundi and Kosovo, are good comprehensive models for future agreements on elections.

BURUNDI

Arusha Peace and Reconciliation Agreement for Burundi
August 28, 2000

Protocol II: Democracy and Good Governance
**Chapter I: Constitutional Principles of the Post-Transition
Constitution**

Article 5 Elections

1. The right to vote shall be guaranteed.
2. Elections shall be free, fair and regular in accordance with the electoral law and the law governing political parties.
3. Elections shall be organized impartially at the national, commune and *colline* levels and at other levels prescribed by the Constitution or by law.
4. Until amended in accordance with the post-transition Constitution, the rules relating to the electoral system shall be the same as those governing the elections for institutions at the national, commune and *colline* levels to be held during the transition period.
5. An Independent National Electoral Commission constituted in conformity with the provisions of article 20 of the present Protocol shall guarantee the freedom, impartiality and independence of the electoral process.

Article 8 Local government

1. The provinces shall be administered by civilian governors appointed by the President of the Republic and confirmed by the Senate.
2. Communes shall be decentralized administrative entities. They shall be the basis of economic and social development, and shall be divided into *collines* or zones and such other subdivisions as are provided for by law.
3. The law shall make provision for the circumstances under which a commune administrator may be dismissed or suspended, by the central authorities or by the Commune Council, for good cause including incompetence, corruption, gross misconduct or embezzlement.

Chapter II: Transitional Arrangements

Article 12 Objectives

The objectives of the transitional arrangements shall be:

To adopt an electoral law, establish an independent electoral commission and ensure the holding during the transition period of elections at the local and national levels as provided for in article 20 below

Article 13 Duration of the transition

1. The transition period shall commence from the time that the conditions necessary for installing the transitional Government in accordance with the applicable instruments have been met, which shall be as soon as possible after three months, and in any event not later than six months, from the date of signature of the Agreement. The Implementation Monitoring Committee alone shall determine this date, and may bring it forward if it decides that the necessary conditions exist. Until the transition period commences, all parties shall meet their obligations under the Agreement to establish or co-

operate in establishing the agreed legal and institutional framework. The implementation Monitoring Committee, established as set forth in Protocol V, shall be the mechanism for guaranteeing compliance with the Agreement.

2. The transition period shall culminate upon the election of the new President. The presidential election shall take place after the first democratic election of the National Assembly. Both elections shall take place within 30 months of the commencement of the transition period.

Article 20 **Elections**

1. Elections at the commune level and at the national level shall be held during the transition period in accordance with the provisions and within the time-frames set forth in the present Protocol.
2. An Independent National Electoral Commission shall be established by the transitional Government as set forth hereunder.
3. The Commission shall be made up of five independent personalities and shall solicit advice from a multiparty commission of the transitional National Assembly. Its members shall be approved by a **three-fourths** majority of the transitional National Assembly, and may include non-Burundians who have expertise and integrity.
4. The Commission shall have as its functions:
 - a. To organize elections at the national, commune and *colline* levels;
 - b. To ensure that these elections are free, fair and transparent;
 - c. To proclaim the results of the elections within a period determined by law, which shall be as short as possible;
 - d. To promulgate the arrangements, the code of conduct, and the technical details, including the location of voting stations and times of voting;

- e. To hear and adjudicate on complaints regarding observance of the rules of the elections. The decisions of the commission shall be final;
 - f. To ensure through appropriate rules that parties do not operate in a manner that incites ethnic violence or is otherwise not in conformity with the present Protocol;
 - g. To ensure, and hear disputes regarding, compliance with the multiethnic requirements set forth in the present Protocol.
5. The transitional National Assembly shall within 12 months and by a **two-thirds** majority adopt a law regarding electoral rules.
 6. The revised electoral code may set a threshold - up to 2% - below which no political party may be allocated seats if it has not won that percentage of the votes cast at the national level.
 7. There shall be elections for the National Assembly, which shall take place after the commune elections and before the election of the President. The National Assembly shall have 100 directly elected members. As an exceptional measure and for the purpose of the first election only, and only if one party has received more than **three-fifths** of the directly elected seats, an additional 18 to 21 members in total shall be co-opted in equal numbers from the lists of all the parties that have obtained more than the threshold vote, or two persons per party if more than seven parties qualify.
 8. The electoral system for the National Assembly shall be the system of blocked lists with proportional representation. The revised electoral code shall prescribe that lists be multi-ethnic in character and reflect gender representation. For each three names in sequence on a list, only two may belong to the same ethnic group, and for each five names at least one shall be a woman.
 9. The election of the President of the Republic shall take place after the National Assembly elections and before the end of the transition period.

10. The first post-transition President shall be elected by the National Assembly and Senate sitting together by a majority of **two-thirds** of the votes.
11. Any person who has served as President during the transition period shall be ineligible to stand for President in the first election. Candidates for the presidency must be Burundian citizens and over 35 years of age.
12. Elections at the commune level shall be held, in accordance with the procedures listed below, within eighteen months of the commencement of the transition period.
13.
 - a. The *collines* shall be administered by *colline* councils of five members elected by direct universal suffrage. The councillor with the greatest number of votes shall become the chief of the *colline*. Elections for the *colline* chiefs shall, for the first elections, not be based on party political lists and all candidates shall stand as independents.
 - b. The communes shall be administered by commune councils, which shall be elected by direct universal suffrage.
 - c. For purposes of the first election, each Commune Council shall appoint a Commune Administrator and may dismiss her/him for good cause, including incompetence, corruption, misconduct or embezzlement. For subsequent elections, the National Assembly and the Senate may, after evaluation, legislate for the administrators to be elected by direct universal suffrage.
 - d. At the national level, not more than 67% of commune administrators shall be from either of the two main ethnic components. The Senate shall ensure respect for this principle.

Appendix I: Explanatory Commentary on Protocol II

I. Summary of Constitutional and Transitional Proposals for Burundi

B. Summary of Proposals

1. Electoral system

The "electoral system" does not merely concern the system of voting, but must be understood in the context of the full variety of the institutional and other mechanisms providing for inclusive and multi-ethnic participation in the structures of government and the Senate.

KOSOVO

Interim Agreement for Peace and Self-Government in Kosovo
February 23, 1999

FRAMEWORK

Article I: Principles

4. Citizens in Kosovo shall have the right to democratic self-government through legislative, executive, judicial, and other institutions established in accordance with this Agreement. They shall have the opportunity to be represented in all institutions in Kosovo. The right to democratic self-government shall include the right to participate in free and fair elections.

CHAPTER 1: CONSTITUTION

Article II: The Assembly General

1. Kosovo shall have an Assembly, which shall be comprised of 120 Members.

(a) Eighty Members shall be directly elected.

(b) A further 40 Members shall be elected by the members of qualifying national communities.

(i) Communities whose members constitute more than 0.5 per cent of the Kosovo population but less than 5 per cent shall have ten of these seats, to be divided among them in accordance with their proportion of the overall population.

(ii) Communities whose members constitute more than 5 per cent of the Kosovo population shall divide the remaining thirty seats equally. The Serb and Albanian national communities shall be

presumed to meet the 5 per cent population threshold.

Other Provisions

2. Elections for all Members shall be conducted democratically, consistent with the provisions of Chapter 3 of this Agreement. Members shall be elected for a term of three years.

Article VII: National Communities

1. National communities and their members shall have additional rights as set forth below in order to preserve and express their national, cultural, religious, and linguistic identities in accordance with international standards and the Helsinki Final Act. Such rights shall be exercised in conformity with human rights and fundamental freedoms.

2. Each national community may elect, through democratic means and in a manner consistent with the principles of Chapter 3 of this Agreement, institutions to administer its affairs in Kosovo.

Article IX: Representation

1. Citizens in Kosovo shall have the right to participate in the election of:

(a) At least 10 deputies in the House of Citizens of the Federal Assembly; and

(b) At least 20 deputies in the National Assembly of the Republic of Serbia.

2. The modalities of elections for the deputies specified in paragraph 1 shall be determined by the Federal Republic of Yugoslavia and the Republic of Serbia respectively, under procedures to be agreed with the Chief of the Implementation Mission.

3. The Assembly shall have the opportunity to present to the appropriate authorities a list of candidates from which shall be drawn:

(a) At least one citizen in Kosovo to serve in the Federal Government, and at least one citizen in Kosovo to serve in the Government of the Republic of Serbia; and

(b) At least one judge on the Federal Constitutional Court, one judge on the Federal Court, and three judges on the Supreme Court of Serbia.

CHAPTER 3: CONDUCT AND SUPERVISION OF ELECTIONS

Article I: Conditions for Elections

1. The Parties shall ensure that conditions exist for the organization of free and fair elections, which include but are not limited to:

(a) freedom of movement for all citizens;

(b) an open and free political environment;

(c) an environment conducive to the return of displaced persons;

(d) a safe and secure environment that ensures freedom of assembly, association, and expression;

(e) an electoral legal framework of rules and regulations complying with OSCE commitments, which will be implemented by a Central Election Commission, as set forth in Article III, which is representative of the population of Kosovo in terms of national communities and political parties; and

(f) free media, effectively accessible to registered political parties and candidates, and available to voters throughout Kosovo.

2. The Parties request the OSCE to certify when elections will be effective under current conditions in Kosovo, and to provide assistance to the Parties to create conditions for free and fair elections.

3. The Parties shall comply fully with Paragraphs 7 and 8 of the OSCE Copenhagen Document, which are attached to this Chapter.

Article II: Role of the OSCE

1. The Parties request the OSCE to adopt and put in place an elections program for Kosovo and supervise elections as set forth in this Agreement.

2. The Parties request the OSCE to supervise, in a manner to be determined by the OSCE and in cooperation with other international organizations the OSCE deems necessary, the preparation and conduct of elections for:

(a) Members of the Kosovo Assembly;

(b) Members of Communal Assemblies;

(c) other officials popularly elected in Kosovo under this Agreement and the laws and Constitution of Kosovo at the discretion of the OSCE.

3. The Parties request the OSCE to establish a Central Election Commission in Kosovo ("the Commission").

4. Consistent with Article IV of Chapter 5, the first elections shall be held within nine months of the entry into force of this Agreement. The President of the Commission shall decide, in consultation with the Parties, the exact timing and order of elections for Kosovo political offices.

Article III: Central Election Commission

1. The Commission shall adopt electoral Rules and Regulations on all matters necessary for the conduct of free and fair

elections in Kosovo, including rules relating to: the eligibility and registration of candidates, parties, and voters, including displaced persons and refugees; ensuring a free and fair elections campaign; administrative and technical preparation for elections including the establishment, publication, and certification of election results; and the role of international and domestic election observers.

2. The responsibilities of the Commission, as provided in the electoral Rules and Regulations, shall include:

(a) the preparation, conduct, and supervision of all aspects of the electoral process, including development and supervision of political party and voter registration, and creation of secure and transparent procedures for production and dissemination of ballots and sensitive election materials, vote counts, tabulations, and publication of elections results;

(b) ensuring compliance with the electoral Rules and Regulations established pursuant to this Agreement, including establishing auxiliary bodies for this purpose as necessary;

(c) ensuring that action is taken to remedy any violation of any provision of this Agreement, including imposing penalties such as removal from candidate or party lists, against any person, candidate, political party, or body that violates such provisions; and

(d) accrediting observers, including personnel from international organizations and foreign and domestic non-governmental organizations, and ensuring that the Parties grant the accredited observers unimpeded access and movement.

3. The Commission shall consist of a person appointed by the Chairman-in-Office (CIO) of the OSCE, representatives of all national communities, and representatives of political parties in Kosovo selected by criteria to be determined by the Commission. The person appointed by the CIO shall act as the

President of the Commission. The rules of procedure of the Commission shall provide that in the exceptional circumstance of an unresolved dispute within the Commission, the decision of the President shall be final and binding.

4. The Commission shall enjoy the right to establish communication facilities, and to engage local and administrative staff.

CHAPTER 5: IMPLEMENTATION I

Article IV: Process of Implementation

General

1. The Parties acknowledge that complete implementation will require political acts and measures, and the election and establishment of institutions and bodies set forth in this Agreement. The Parties agree to proceed expeditiously with these tasks on a schedule set by the Joint Commission. The Parties shall provide active support, cooperation, and participation for the successful implementation of this Agreement.

Elections and Census

2. Within nine months of the entry into force of this Agreement, there shall be elections in accordance with and pursuant to procedures specified in Chapter 3 of this Agreement for authorities established herein, according to a voter list prepared to international standards by the Central Election Commission. The Organization for Security and Cooperation in Europe (OSCE) shall supervise those elections to ensure that they are free and fair.

3. Under the supervision of the OSCE and with the participation of Kosovo authorities and experts nominated by and belonging to the national communities of Kosovo, Federal authorities shall conduct an objective and free census of the population in Kosovo under rules and regulations agreed with the OSCE in

accordance with international standards. The census shall be carried out when the OSCE determines that conditions allow an objective and accurate enumeration.

(a) The first census shall be limited to name, place of birth, place of usual residence and address, gender, age, citizenship, national community, and religion.

(b) The authorities of the Parties shall provide each other and the OSCE with all records necessary to conduct the census, including data about places of residence, citizenship, voters' lists, and other information.