Electoral Integrity
INITIATIVE

Elections and Peacebuilding:

Why the timing and sequencing of transitional elections matter

Policy brief No.4

"Transitional elections represent an opportunity for all actors to be constructive and effective within the democratic process after a rupture in the political system, especially in regard to the timing and sequencing of the first electoral cycle."

Elections and Peacebuilding

Annette M. Fath-Lihic and Dawn Brancati

I. Introduction

Elections are key for fostering peace and stability in transitional settings and are often, as a result, one of the central elements of peace deals and transitional political accords. For example, the United Nations Security Council Resolution 2254[1], which has been used as the main basis for the Syrian peace talks since 2016, expresses its support, not only for non-sectarian governance and a new constitution, but also free and fair elections.[2] The importance of the timing of countries' first transitional elections and the context in which they occur has also been recognised by the United Nations more generally, and is mentioned in the latest report of the former United Nations Secretary General Ban Ki Moon:

> *"Any discussion about timing should take into account the purpose of the election, and how the legitimacy required to govern would be established and maintained other than by an electoral process."* [3]

Following a series of transitional elections in countries around the globe in recent years, it is vital to take stock and determine whether there are important common principles and lessons learned from previous experiences that could benefit future transitions from political instability or conflict to democratic governance.
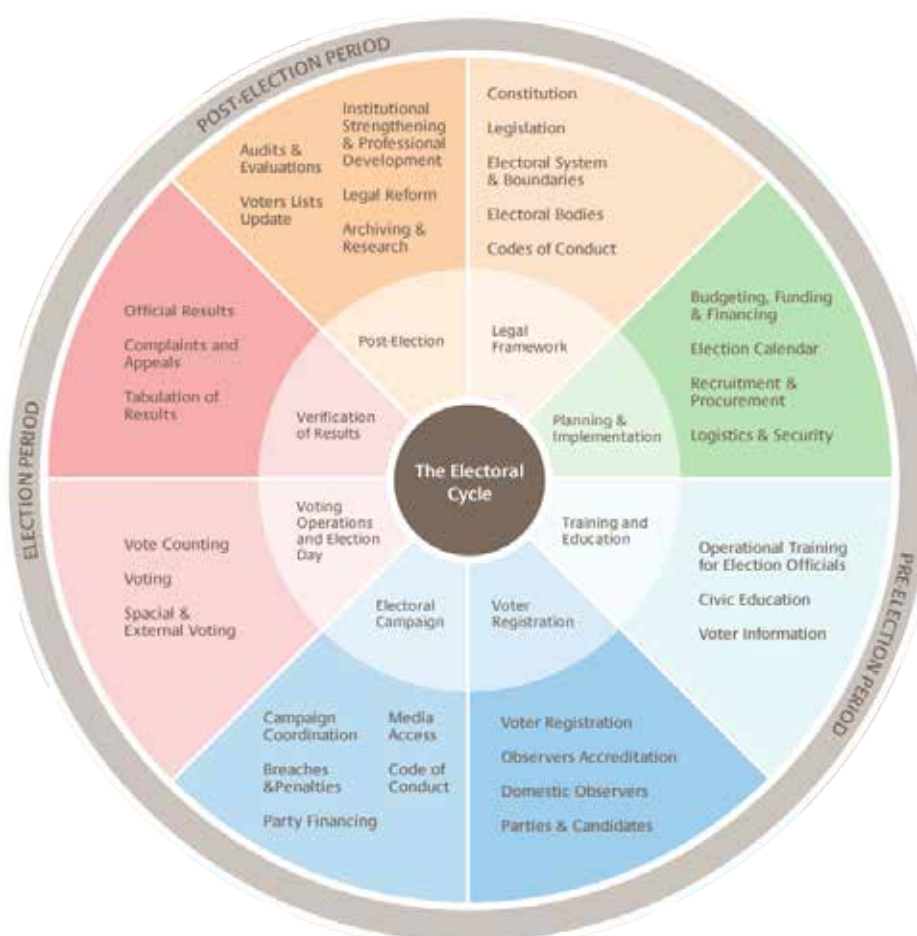
Countries, such as Burundi, the Central African Republic, the Democratic Republic of the Congo, Egypt, Iraq, Yemen, South Sudan and Syria are grappling with questions related to peace, security and integrity in their current political transitions. At the same time, other countries,

including Bosnia and Herzegovina, Kosovo, Afghanistan, Liberia, Myanmar, Tunisia and Nepal have valuable experiences to share based on their past transitions. Drawing on examples from these countries, this policy paper discusses the dynamics and complexities around the question of the timing and sequencing of transitional elections with a focus on the first electoral cycle.

Figure 1. The Electoral Cycle [4]

The Electoral Cycle is a tool designed by international assistance providers for visualizing the cyclical nature of the various electoral components. Elections are understood as a continuous process rather than isolated events without fixed starting or ending points. At the most general level, the electoral cycle is divided into three main parts: the pre-electoral period, the electoral period, and the post-electoral period, with different stakeholders interacting and influencing each other in each period.

POST-ELECTION PERIOD

ELECTION PERIOD

PRE-ELECTION PERIOD

The Electoral Cycle

Post-Election
- Institutional Strengthening & Professional Development
- Audits & Evaluations
- Voters Lists Update
- Legal Reform
- Archiving & Research

Legal Framework
- Constitution
- Legislation
- Electoral System & Boundaries
- Electoral Bodies
- Codes of Conduct

Planning & Implementation
- Budgeting, Funding & Financing
- Election Calendar
- Recruitment & Procurement
- Logistics & Security

Training and Education
- Operational Training for Election Officials
- Civic Education
- Voter Information

Voter Registration
- Voter Registration
- Observers Accreditation
- Domestic Observers
- Parties & Candidates

Electoral Campaign
- Campaign Coordination
- Media Access
- Breaches & Penalties
- Code of Conduct
- Party Financing

Voting Operations and Election Day
- Vote Counting
- Voting
- Special & External Voting

Verification of Results
- Official Results
- Complaints and Appeals
- Tabulation of Results

YEMEN

> *"Yemen's last electoral event was the unopposed consensus election of President Hadi in February 2012 after former President Saleh stepped down, as required by the GCC Agreement. Prior to that, Yemen held simultaneous presidential and Local Council elections in September 2006. The last election for the HoR was held in April 2003, ten years after the first HoR elections in the newly unified country. The terms of the political settlement will be a major determinant of the nature and timing of the electoral events in Yemen's continuing transition. If the five tiers of government (the federal level, the regions, Sana'a city and Aden city, the wilaya, and local districts) specified in the draft constitution are left largely intact, the electoral arrangements proposed in the draft are also likely to survive. On the other hand, these arrangements will need to be revised if there is a wholesale renegotiation of the structure of the state and the government, and the political settlement may establish a further consultative and negotiating process to resolve these and similar issues. Some of the results of that process may apply only to the initial electoral events such as the constitutional referendum and the first elections held under it, with any further changes being made by those elected at the elections. In consideration of these uncertainties, however, the following sections discuss in general terms the electoral issues that could arise during the transition."* [5]

In this paper *transitional elections* are defined as the first electoral cycle following a rupture in the political system due to a violent conflict, constitutional crisis, coup d'état, death of a national leader, and so forth. Transitional elections represent an opportunity for all actors to be constructive and effective within the democratic process after a rupture in the political system, especially in regard to the timing and sequencing of the first electoral cycle.

Election timing refers to the time (e.g., years, months, or days) that has elapsed since the event that triggered the transition process and the conduct of the first transitional elections. It is essential to understand what leads to the decision as to when to hold elections and to use the transition process strategically to ensure that elections are held under the best conditions. Although the timing and sequencing of the first electoral cycle is important, elections are only one component of a successful transition, and any transition towards a stable democratic system will most likely take several electoral cycles. The path towards democratic stability is never straight and the process often includes risks and setbacks.

Election sequencing, in contrast, refers to the order in which elections are held either vis-à-vis the development of other election-related factors (e.g., full enfranchisement and clean electoral rolls); the occurrence of other elections at the same or different levels of government; and the completion of other elements of the transition process (e.g., the writing of a new constitution; development of a robust civil society; and the demobilization, disarmament, and reintegration of former combatants). Setting the agenda for a framework for political engagement and negotiation at the national, regional, and global levels between key stakeholders

in transitional settings that promotes informed discussion and deci-sion-making on the timing and sequencing of transitional elections is crucial.

Three key questions, thus, guide this paper:

- What determines the optimal timing of transitional elections and the sequence of events overall (including the peace agreement and/or political settlement, constitutional transitional arrangements, and the electoral process as such)?

- Within this sequence, what are the necessary technical and political preconditions for a successful transitional election?

- What is the optimal sequence, if any? What constitutes "success"?

The overall objective of this paper is to enhance national and international policy-makers' ability to understand and assess the complex political, legal, technical, operational, participatory, and security-related considerations in determining the optimal timing for transitional elections. To this end, a set of policy recommendations at the conclusion of this paper are provided. However, attempts at one-size-fits-all solutions should be avoided since much depends on the context in which transitional elections occur, including a country's political history, the nature of the conflict preceding the transition, as well as the type and goal of the election.

II. An overview of the existing research on the timing of elections:

Lakhdar Brahimi, former Secretary-General Kofi Annan's Special Envoy, said in 2004 "*We need to organize elections as early as possible, but not earlier than possible* " when speaking about organising polls in Iraq.[6]

So when is the best time to hold elections?
Existing research provides some insights into this question.

In post-conflict settings, research suggests that holding the first elections too soon after the end of a conflict is risky because early elections entrench wartime combatants and narrowly-focused, personalised parties in power,[7] and because these parties are more likely than programmatic parties to undermine and/or destroy democracy once in power.[8] In this context, holding elections too soon may prevent a significant reconfiguration of the political landscape and fail to provide sufficient opportunity to resolve structural and latent issues in post-conflict contexts. Early elections are also risky in transitional settings because they often take place without strong political, legal and civil institutions in place.[9] Without these institutions, elections can serve as a stage for nationalist, sectarian, or extremist appeals as well as the coercion and manipulation of the populace.[10] At the same time, however, if previously warring factions are dissatisfied with the outcome of the elections, they are more likely to renew fighting.[11]

Without sufficient time for preparation, it is also possible that countries will lack the institutional and technical capacities, as well as the financial and human resources necessary for organising competitive elections.[12] Some research suggests that the mere practice of holding elections, even flawed ones, is important because it habituates politicians and voters to democratic routines and paves the way for cleaner elections in the future. Elections can also signal a new government's commitment to democracy, which is often a requirement for foreign aid. And, although history has shown that technically perfect elections are not necessary for parties to an election to accept the results, severely compromised elections may undermine the citizenry's faith in democracy as a form of governance.[13]

Studies also suggest that the problems of early elections can be mitigated by the context in which they occur, including the presence of certain political institutions and peace-building mechanisms. These factors are likely to affect not only the quality and legitimacy of the elections, but also the consequences of losing the elections for contestants; the recourses available to domestic actors that reject the elections; and the implications for developing democracy over the long term in countries. Brancati and Snyder, for example, find that decisive victories, demobilization, peacekeeping, power-sharing, and the development of robust political, administrative, and judicial institutions, make early elections less likely to result in renewed warfare.[14] Looking at conflicts that end in peace settlements in particular, Madhav Joshi, Erik Melander and Jason Michael Quinn similarly find that the risk of renewed fighting can be reduced if the elections are proceded by certain accommodating measures, namely the establishment of a transitional powersharing government, the granting of amnesty, and the release of

prisoners of war, which meet the authors' criteria of elections being swift, verifiable, costly, facilitative, and non-disempowering.[15]

The existing research provides important lessons, but it does not fully address all of the political considerations and aspects of the context in which the first transitional elections are held, which might affect the prospects for peace, stability and democratic governance. The political landscape in which these elections are held is complex and varies significantly across countries.

BOSNIA AND HERZEGOVINA, 1988

> *"Democratic elections are all too often simplistically put forward in the West as a panacea, as if by itself the act of voting will cure all ills within a society. Here it is worth bearing in mind that both Bosnia and the rest of the former Yugoslavia had already held democratic elections when they fell apart in war. Indeed, their disintegration can, in part, be attributed to the nature of the democracy which emerged. In Bosnia the 1990 election amounted to a poor ethnic census and as politicians exclusively represented the narrow interests of their own ethnic group and not the entire electorate, Bosnian society polarised and politics degenerated into a zero-sum affair.*

The issue of democracy in a multi-ethnic state has generated a great deal of academic debate. Early political philosophers such as John Stuart Mill were sceptical about the prospects for democracy in a multi-ethnic state, arguing that "free institutions are next to impossible in a country made up of different nationalities". Contemporary political scientists have a more optimistic view and look to designing democratic institutions in such a way that they reconcile legitimate interests of different communities based on local conditions. In Bosnia, therefore, the environment for democracy, the conditions and the political and electoral systems are critical.

Though elections formed the cornerstone of the Dayton Peace Agreement (DPA), the conditions in which any kind of fair poll could take place simply did not and could not exist without a major restructuring of Bosnian society. Before giving the go-ahead to Bosnia's 1996 elections, the OSCE's then Chairman-in-Office Flavio Cotti warned that if minimal prerequisites were not met before polling day, the vote ought not to take place as it would lead to "pseudo-democratic legitimisation of extreme nationalist power structures". His words were prophetic. The elections simply ratified the status quo, conferring mandates on the nationalists who had prosecuted the war who continued to pursue the same policies. The result was further zero-sum politics. The current elections will again ratify

the status quo. They will not of themselves take the peace process forward. However, today's Bosnia is very different from that of 1996.

The changes which will be hailed as electoral break-throughs should not be attributed to the flowering of democracy in Bosnia. They are instead the result of the way in which the international community has ridden roughshod over Bosnia's democratic institutions. The status quo has been forcibly changed by interventionist policies aimed at loosening the grip of the political parties which emerged victorious in the 1996 poll. Snatch operations against indicted war criminals, robust SFOR intervention in Banja Luka in the summer of 1997, SFOR seizure of Bosnian Serb television's transmitters in October 1997, destroying the financial base of hard-line politicians, dismissing officials and striking candidates from electoral lists have created a new Bosnian reality.

The greatest changes will be among Serbs in Republika Srpska where support for the SDS is likely to disintegrate. The SDS already lost control over the entity's National Assembly in November 1997, has seen its financial base disappear, and has been deprived of access to media. In recent months the power struggle has spilled over into violence with one assassination and another attempted assassination. The post-electoral alliances may prove interesting.

Among Bosniacs, the changes will be less dramatic. The main opposition party, the SDP, is likely to do better because there should be no repetition of the fraud which marred the 1996 poll, electors who backed Haris Silajdzic in 1996 will probably switch allegiance, and the party has waged a successful campaign. At the presidential level, however, the SDP did not bother even to put up a candidate against the incumbent Alija Izetbegovic. This throws up an interesting possibility in the battle for the Croat member of the Presidency because of a quirk in the electoral system. Electors in the Federation have one vote at the presidential level and can choose whether to use it for a Bosniac or a Croat candidate. Since Izetbegovic's election is a foregone conclusion, a large number of Bosniacs in the Federation may opt to vote for the Croat member of the Presidency, in which case the HDZ's candidate and favourite Ante Jelavic could be defeated. Otherwise, the NHI, the new Croat party of Kresimir Zubak is likely to make modest inroads which could, nevertheless, transform politics in certain cantons.

Despite the changes in parties and personnel in power, the elections will not have much impact on the logic of Bosnian politics. Having been elected on the basis of votes of a single community, ethnically-based parties will only represent the interests, or what they deem to be the interests of that one ethnic group and feel no obligation to the rest of Bosnia's population. Instead of seeking
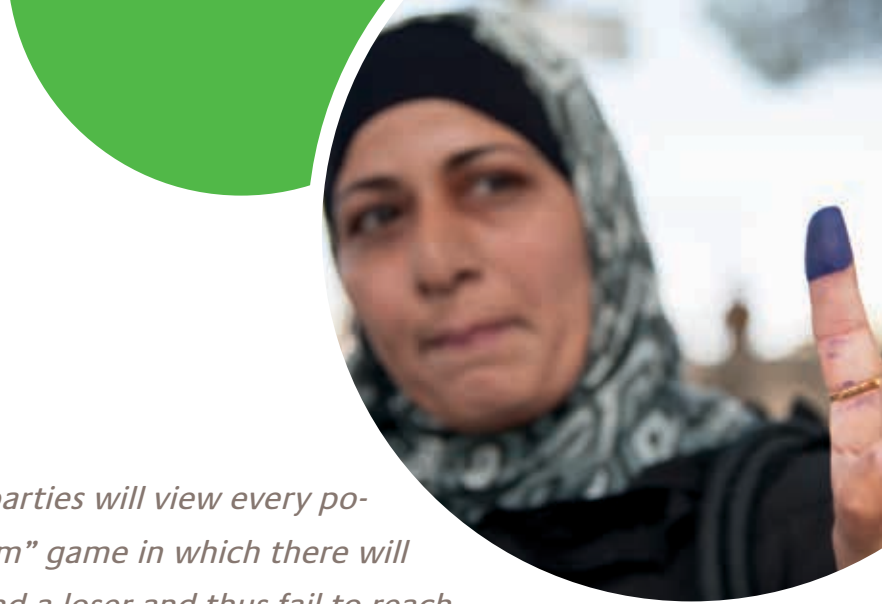
accommodation, these parties will view every political issue as a "zero-sum" game in which there will inevitably be a winner and a loser and thus fail to reach compromise. The fundamental flaw is the lack of ethnic security. This is the underlying reason for conflict within the country as well as for the lack of trust between ethnic groups. Moreover, the lack of ethnic security undermines everything the international community is attempting to achieve and fails to offer Bosnians a future. As a result, many young, educated Bosnians are voting with their feet and emigrating.

In every country, the electoral system has a profound effect on political life, influencing the way parties campaign and political elites behave. In multi-ethnic societies the choice of system is especially important. Depending on the system selected, it can either provide incentives for parties to be broad-based and accommodating, or it can achieve the opposite, namely to encourage parties to form around narrow appeals to ethnicity. ICG has proposed a radical reform of the electoral system requiring candidates to seek the support of all ethnic groups, not just their own. Moreover, a permanent electoral law is currently being drawn up for Bosnia which should be passed by the end of the year. For democracy to thrive in Bosnia, for Bosnians to have a future and the peace process to become self-sustaining in the absence of today's colossal international presence, it is critical that the new law builds in ethnic security." [16]

LIBERIA

"What made the 2005 elections in Liberia unusual amongst post-conflict elections in Africa? What factors determined how Liberians voted in the elections? This article from the Journal of Modern African Studies analyses the 2005 presidential and legislative elections in Liberia. It finds that the virtual absence of transformed rebel forces or an overbearing incumbent gave the elections extraordinary features in an African setting. Another unusual feature in the context of African elections was the fragility of party loyalty.

The absence of an incumbent or transformed rebel forces meant that the 2005 Liberian elections took place amongst civilians on a relatively level playing field. Although government resources were used illegally, they were not used in support of one particular party. The absence of rebel forces prevented insecurity from having a large influence on the election results. These positive features of the elections were largely a result of the 2003 Comprehensive Peace Agreement (CPA) and the National Transitional Government of Liberia (NTGL). The CPA and NTGL did not allow for an incumbent party and effectively 'bought off' rebel leaders rather than threatening them with war crimes tribunals.

The election results show definite patterns, indicating an electorate that voted with a purpose and applied a range

"We need to organise elections as early as possible, but not earlier than possible"

Lakhdar Brahimi

of rationales in making its decision. Factors which affected how people voted include: the political and commercial records of the presidential aspirants – Ellen Johnson-Sirleaf emphasised her reputation for standing up to repression, while George Weah highlighted his football career and absence from past corrupt governments.

Regional divides – while regional voting patterns stand out, however, large home county victories for candidates only contributed to national results to a limited extent.
The 'Congo-country' divide between Americo-Liberians and the indigenous population – while Weah probably ben-efited from his image as an indigenous man of the people, the effect of this factor should not be overestimated.
Local factors – patterns in the Senate and House election results and the success of independent candidates suggest that local factors played a significant role.
The educated and politically-uneducated and apolitical divide – in the run-off, Johnson-Sirleaf appealed to those believing Liberia needed an educated president, while Weah appealed to those who felt educated leaders had failed Liberia.

The crucial question for Liberians is whether the gov-ernment can provide a platform for reconciliation and economic recovery. The results of the 2005 election have a number of implications in this regard:

President Johnson-Sirleaf is a member of the established political elite, but has demonstrated autonomy in her pronouncements. She will need consummate political skills to deal with pressure from various actors and interests. Having different leaders in the Presidency, Senate and House could lead to deadlock, while local power holders may also be able to block government action.

The legislative bodies represent a diversity of interests that could prove advantageous for reconciliation. They could also serve as a check on the executive and nurture a culture of compromise, balancing and coalition-building. Opposition parties' poor political capacity and weak party loyalty could undermine the advantages of the diversity of interests represented in the legislature. Political parties could, however, be open for much-needed capacity building.

While a formal power-sharing government might be seen as too similar to the NTGL, an inclusive Unity Party-led government would likely be beneficial." [17]

III. Components of transitional elections:

Elections are important components of political transitions and can help avert legitimacy crises by conferring domestic and international authority on governments.[18] Where elections occur after protracted violent conflicts, elections can give former combatants an opportunity to participate in the political process, and mitigate the risk of a return to war.[19] In these circumstances, elections also represent a symbolic milestone – clearly marking a shift towards a new democratic era that reflects the will of citizens.

Elections, however, also pose significant risks. Elections can mirror the underlying conditions and grievances in countries, provide sources of new conflict among groups, and trigger instability and violence. Poorly administered elections and elections beset by fraud or other forms of malfeasance can also lack legitimacy, and undermine support for the new government and the transition as a whole.

For this reason, when transitional elections occur is an important issue. The timing of these elections can affect the quality of the elections, the type of political actors that dominate the elections, and whether there is "buy in" from citizens, not only through the quality of the elections, but also through when these elections are held in relation to other aspects of the transition process. Elections do not take place in a vacuum. They are part of a complex political environment and, therefore, the question of when to conduct transitional elections should take into account the following inherent components:

Peace processes/dialogues

It is important to specifically understand the political elements of a transition and how negotiations over the schedule of elections affect the peace agreement processes, and vice versa. A variety of stakeholders, such as political actors, civil society and the international community – might have different interests. An overall common goal like the end of the violent conflict and/or the stability of the respective country might unite different positions.

At the end of 2006, the 10-year violent conflict in Nepal ended with the signing of a Comprehensive Peace Agreement (CPA) by six major political factions and the leaders of the Maoist movement. The CPA included the commitment to conduct elections in June 2006 for a constituent assembly following the formation of an interim legislature and government including the Maoists. The constituent assembly should be elected through a mixed first-past-the-post and proportional system and be charged with deciding the future political structure of the country and the fate of the monarchy. The original June 2007 target was not met mainly due to the lack of existing legislation. The elections finally took place on 10 April 2008 in a generally peaceful atmosphere.

NEPAL

"Interestingly, the UN´s presence was actually the most important factor for pushing forward the elections in June 2007. The Chief realized this truth during a meeting with

Indian diplomats, when the value of the UN was questioned. "What´s the use of these expensive UN staff? They must take huge salaries in the name of conflict. Is there any conflict in Kathmandu where they work? We are capable of giving you any support you want. It's best to send white elephants back as soon as possible", a diplomat said to the Chief.

A few days earlier, the Indian Ambassador, Shiv Shankar Mukherjee had said Nepal could shorten the election process in order to conduct the June elections. This comment came because India was feeling increasingly uncomfortable about the UN presence in Nepal, and wanted to push hard for a June election, so the UN would leave the country without any delay. The Chief later explained:

"India is a powerful domestic factor in countries of South Asia, particularly in so-called India-locked Nepal. So, if India´s interest was in holding an election in June then there was a great possibility that the election would happen at that time. Most importantly, major domestic forces also wanted the election to be held in June. I wanted to complete all technical preparations so the Commission would not be blamed for any delay."

(…)

Reflecting on the postponement of the election, scheduled for June, the Chief said:

> *"Our credibility increased after we declared the postpone-ment of the election. We were concerned that the Com-mission might be accused of cancelling the election due to pressure from regressive forces or the Royal Palace. Yet, finally we decided to take the risk.*
>
> *(…)*
>
> *There really seemed to be a convergence of interests be-tween some of the powerful foreign forces and domestic actors, which wanted to see the rebels´ strength weakened before the election was held. In an aid-dependent country like Nepal, different international powers exert great influ-ence. That's why after the delay of the June election, I un-derstood that there would have to be some changes before the Constituent Assembly elections could be held."*
>
> *Later events would prove that the Chief was right in this assessment.[20]*

Bhojraj Pokharel, Chief Election Commissioner of Nepal 2006 to 2009

Legal frameworks

The legal dimension of political transitions, especially as they relate to the Human Rights Framework and electoral processes, are central to any elections, especially during a transitional period. Issues related to election laws, the electoral system, and regulations aimed to establish good practices are the necessary legal prerequisites to conduct inclusive elections.

In terms of the sequencing of elections and constitution-building efforts, the legal framework should support the relative electoral strength of the different parties and the design of the constitution. These things are intimately related and it seems clear that the actual design of the constitution will be different depending on when (before or after elections) it is drafted, and also how soon after the constitution the next elections are scheduled.

The writing of a new constitution prior to the first transitional election by a constitutional body can lower the risk that the first transitional election poses to political actors, as can the diffusion of power among political institutions at the national level and between the national and subnational levels of government. The lower the consequences of losing the first elections in a transitional setting, the more likely electoral losers are to accept the outcome of the elections, and the less likely violence and instability is to result.

Political party landscape

As a result of the changing power dynamics that normally characterise a political transition, the political party landscape often requires significant attention, particularly in a post-conflict setting or after the fall of an authoritarian regime. Starting with a non-normative concept of parties, parties should be understood as organizations led by self-interested leaders who are both goal-seeking and survival-oriented. These organizations are not unitary actors, but consist of sub-groups – local party officials, candidates for public office, and the central party hierarchy – for whom participation in electoral politics, or power-sharing, brings different risks and opportunities.

The political party landscape consists of a number of important issues, such as the laws governing political parties; the ability of existing parties to participate in the electoral process; the role of conflict protagonists in the electoral process (in a post-conflict setting); and the capacity of political parties to participate and monitor the electoral process. Therefore, transitional elections should be scheduled to safeguard the ability of political parties and all citizens to fully participate in the electoral processes.

In transitional settings, the timing of the first elections can significantly affect the nature of the political parties formed. Therefore, the objective of the elections must be considered in deciding when to hold the first transitional elections. In post-conflict settings countries, whose primary goal is to avoid a return to war, countries may find it necessary to hold elections soon after a war ends in order to incorporate former combatants into the

political system. Countries, whose main goal is to promote democracy, though, may choose to delay elections until programmatic parties - that is, parties, where the parties' top leaders are not former combatants and competition among parties is based on political parties - are developed if a return to war is made unlikely by the reduction of government forces and the disarmament of former combatants, among other issues.

TUNISIA

> "In post-revolutionary societies, populations have a legitimate desire to express their political choices through democratic elections. However, in fragile democracies it may be useful to leave open the possibility of broadening political decision-making in order to avoid transforming into spoilers those who find themselves in the minority. The mechanisms described in this paper sufficiently reassured former elites, whether networks of former regime supporters in the state administration or members of the leftist and/or secular elites, that the newly emerging Tunisian political system would not exclude them. However, although providing these groups with opportunities to contribute to political decision-making, these mechanisms were largely able to reinforce rather than undermine the democratic process. They relied to a certain extent upon the democratic legitimacy of the October 2011 elections by using a party's presence in the democratically elected NCA as a yardstick to determine its entitlement to participate in other decision-making forums, such as the national dialogue processes.

> *The NCA was also maintained as the principal legislative body and allowed to continue drafting the new Tunisian Constitution. As the Troïka was composed of parties with strong electoral support, broad and ideologically diverse coalition governments provided another effective means to move away from majoritarian politics while maintaining democratic legitimacy.*
>
> *The insistence on maintaining a link to the democratic process (namely the 23 October 2011 elections) differentiates the Tunisian democratic transition from other contexts where "power-sharing" agreements have been reached without reference to, or in opposition to, the results of democratic elections. These mechanisms are particularly relevant in postrevolutionary contexts where the need is not simply to share power between two or three groups but to ensure that manifold political actors have a stake in the democratic transition."* [21]

The text was extracted from a background paper, which was initially published as part of the Oslo Forum Briefing Pack 2014. The Oslo Forum annually convenes senior conflict mediators, high level decision-makers and key peace process actors in an informal and discreet retreat to share their experiences, identify challenges and reflect on mediation practice.

Electoral operations

Election Management Bodies (EMBs) play a key role in transitional elections as they execute time frames related to a number of important electoral operations, including activities such as boundary delimitation, procurement, voter registration, party/candidate nomination, voting operations and electoral dispute resolution mechanisms. In addition, the design and composition of the EMBs are important as their performance and reputation influences the extent to which stakeholders trust the electoral process. EMBs also maintain relations with other key stakeholders, such as political parties, civil society organizations and the media throughout the entire electoral cycle.

In general, it is difficult for EMBs to organize high quality elections – that is, elections where the competition among opposing actors is largely open, unbiased, and free of electoral fraud or other forms of electoral manipulation – if elections occur very early on in the transition process, unless a country has had a long history of elections. Although elections will not necessarily be of a higher quality the later they are held in the transition process unless all stakeholders in an election support high quality elections, even where the desire to hold high quality elections is present, it is generally difficult to hold such elections shortly after embarking on a transition process.

Participatory environment

The participatory environment relates to the ability of citizens to participate in the electoral process, including marginalized groups such as ethnic or religious minorities, internally displaced persons and refugees, women, and persons with disabilities, but also to "parallel power structures", including traditional and religious leaders, among others. Elections have greater legitimacy when the participatory environment is more inclusive. If elections are held early in the transition process, the participatory environment may be less inclusive, especially in post-conflict settings where people have been displaced by the prior conflict.

Whether the first elections are held at the national or sub-national level can also affect the inclusiveness of the participatory environment. In countries where there are territorially-concentrated national minorities, holding elections at the sub-national level where minority groups are likely to win greater political representation may improve the degree to which the minority groups accept the legitimacy of the political system, as in the case of Kosovo, where local elections were held before the first post-independence national elections in order to increase the participation of ethnic Serbs.

KOSOVO

"The timing of elections may [also] depend on broader strategic objectives. Thus, in the case of Kosovo during the period of supervised independence (2008-12) efforts were aimed at protecting the rights of the Kosovo-Serb community, empowering them and ultimately at achieving their integration in local society.

To that end, the Comprehensive Settlement Plan proposed by Martti Ahtisaari foresaw the establishment of five new municipalities where Kosovo-Serbs are in the majority and where they would be entitled to control governance. Following technical preparations to stand up these new municipalities, country-wide municipal elections would serve the purpose of refreshing existing municipal councils and also electing five new ones in order to formally activate the new municipalities.

However, there was reluctance in parts of the Kosovo-Serb community to go along, based on broader considerations related to Serb refusal to recognize Kosovo's secession and independence. Together with the international community, the Kosovo authorities therefore worked hard to convince the Kosovo-Serb citizens that the proposed dispensation would be in their interest. After months of intensive consultations and assessing the likely Kosovo-Serb turn-out, the dates were set for November/December 2009. A modest

"The timing of these elections can affect the quality of the elections, the type of political actors that dominate the elections, and whether there is 'buy in' from citizens"

Security environment

In any transitional election, security issues are a primary concern – especially in post-conflict settings. For the conduct of peaceful elections optimal security conditions need to be ensured, where voters can cast their ballots in the absence of fear or intimidation. In post-conflict environments, additional challenges might occur, such as whether or not elections can be held when the government does not control the entire territory of a country. In addition, time frames related to the disarmament, demobilisation, and reintegration of former combatants can influence the security situation in conflict settings, and can further influence the potential for a return to war following the first transitional elections. If, for example, former combatants are not demilitarised prior to the holding of countries' first transitional elections, a return to war is more likely if the former combatants are dissatisfied with the outcome of the elections.

Economic considerations and donor priorities

The political economy of transitional situations determines how political decisions on issues such as elections can affect economic stability or recovery, and when it is feasible to hold the first elections in countries. Donor priorities can affect the timing as well, as certain donors may advocate holding elections early to satisfy internal requirements for dispersing foreign aid to countries and to maintain public support for it.

Constitution building

In circumstances where post-conflict reconstruction also involves the establishment of a new or reformed constitutional order, there is an inevitable series of questions relating to the sequencing of the development of the constitution and new elections. Fundamentally, the question is whether to hold elections under a new democratic constitutional order, and if so, how is the constitution-making body selected? Or, whether it is preferable to write a new constitution after the first democratic elections, and if so, under which constitutional framework are elections to be held?

Current practice tends increasingly to a series of phases, including the use of interim or transitional constitutions to govern the interregnum, but this raises a number of additional questions, in particular relating to the inclusion in, and duration of, interim arrangements. The associated decisions can have critical and lasting impacts on the design of the constitutional framework, the stability of the transition and the results of the first elections. Although the writing of a new constitution prior to the first transitional elections can increase the likelihood that electoral losers will accept the outcome of the elections by lowering the risk that these elections pose to them, interim governments can lack legitimacy, providing a countervailing incentive to expedite elections.

AFGHANISTAN

"The presidential election – Afghanistan's first full-suffrage election for a head-of-state – was alien to Afghan history but integral to the future promised by the Bonn Agreement. It was therefore essential for the election to be part of a process in which the underlying purpose was to replace the politics of violence with politics rooted in law. Unfortunately, the basis of that law – the constitution – played a major role in undermining the ongoing democratisation of Afghanistan's politics.

There is a well-established academic debate on the sequencing of elections and constitutional processes in post-conflict situations. The Bonn Agreement had established that the constitution would be drafted prior to the elections. This did not require, however, that the drafting of the electoral law follow the adoption of the constitution. In fact, a debate took place within the international community early in the process about whether to hold the 2004 election according to a 'one-off' electoral law drafted prior to the constitutional process or to wait for the constitution to be ratified and then draft the electoral law.

Proponents of a one-off law tended to be the election specialists who considered the Bonn timelines – with elections taking place six months after the constitution was ratified

– highly unrealistic. They advocated that the electoral law be drafted first, according to a consultation process among the main political actors, with the understanding that the law would apply only to the first elections and that subsequent elections would be held under a new law drafted according to the constitution.

This proposal was rejected. Drafting of the electoral law did not begin until the constitution was adopted and naturally had to follow the provisions of the constitution. Unfortunately, the latter set timelines and terms that continue to affect Afghan elections. In particular, the 2004 constitution created democratically-elected district councils but put the elections of these local bodies on a different cycle (every three years) from that of provincial councils (every four years) and of the Lower House of the legislature, the Wolesi Jirga, (every five years). This not only meant that there would be 13 elections scheduled in a 20-year cycle, but the implementation of the constitution also meant that the composition of the Upper House, the Meshrano Jirga, would effectively never be stable.

A general rule of thumb in designing electoral systems in post-conflict situations, especially in countries with a scant electoral tradition, is to privilege simplicity over complexity. Constitutional designers, however, tend to be tempted by the lure of 'political engineering' – the designing of intricate systems to deliver desired political outcomes such as ethnic

coalitions, the development of national political parties and the undermining of powerful individuals. While it is certainly true that some governing and electoral systems tend to produce these outcomes while others impede them, there is always the risk that such systems become too complex and generate unexpected consequences. Local political actors do not always interpret incentives in the way intended by well-meaning election engineers, while the complexity of the engineering complicates the imple-mentation of elections." [22]

Scott Smith worked in 2004 for the UN and led the preparations for the 2004 Afghan presidential elections and 2005 parliamentary elections.

IV. Conclusions and recommendations

Transitional elections are of utmost importance for peace and security. Elections are a unique democratic mechanism to help overcome violent conflict and deep-rooted divisions within countries. All relevant stakeholders should be given the opportunity to solve existing disagreements in a peaceful and democratic manner in the interest of citizens. Nevertheless, elections in transitional settings also entail risks. Not only can they worsen already fragile situations within countries, but they can also trigger new and violent conflicts. The timing of the first electoral cycle, thus, requires combined expertise in the areas of democracy and elections, as well as conflict prevention and mitigation.

International, and even more importantly, local stakeholders must identify in practical terms the necessary steps forward regarding the optimal design for the timing and sequencing of elections. There is no universal template for all countries as to when is the best time to hold elections, and any transition towards a stable democratic system will most likely take several electoral cycles. Each country and each situation demands a thoughtful decision as to when, how, and for what purpose to move forward with elections. These decisions should not only take into account technical issues, but should also consider the importance of local ownership, trust building and inclusivity in order to achieve broad-based popular support within countries and to set a national tone of mutual respect and tolerance.[23]

V. Indication of sources for this brief

1 https://www.un.org/press/en/2015/sc12171.doc.html Date accessed 10 March 2017 **2** Aron Lund. 2017. *Everything you need to know about the latest Syria peace talks Geneva IV: Who is coming? What do they want? And will it matter?.* IRIN. **https://www.irinnews.org/analysis/2017/02/21/everything-you-need-know-about-latest-syria-peace-talks**. Date accessed 10 March 2017 **3** United Nations General Assembly, August 2005. *Report of the Secretary General: Strengthening the role of the United Nations in enhancing the effectiveness of the principle of periodic and genuine elections and the promotion of democratization.* A/70/306. 33 **4** **https://commons.wikimedia.org/wiki/File:Electoral-cycle.png.** Date accessed 10 March 2017 **5** International Foundation for Electoral Systems. April 2016. "The Role of Elections in a Post-Conflict Yemen".: 9. Date accessed 22 March 2017 **6** **http://www.un.org/apps/news/story.asp?NewsID=9756&Cr=Iraq&Cr1=#.WGZazCiDjnY**, Date accessed 31 December 2016 **7** de Zeeuw, Jeroen. 2008. *From Soldiers to Politicians: Transforming Rebel Movements After Civil War.* Boulder, CO: Lynne Rienner Publishers; Reilly 2002; Mansfield, Edward D. and Jack L. Snyder. 2005. Electing To Fight: Why Emerging Democracies Go To War. Cambridge, MA: The MIT Press; Mansfield, Edward D. and Jack L. Snyder. 2007. "The Sequencing Fallacy", *Journal of Democracy* 18(3):5–9; Brancati, Dawn and Jack L. Snyder. 2011. "Rushing to the Polls: The Causes of Early Post- conflict Elections," *Journal of Conflict Resolution* 55(3): 469–492; Brancati, Dawn and Jack L. Snyder. 2013. "Time to Kill: The Impact of Election Timing on Post-conflict Stability," *Journal of Conflict Resolution* 57(5): 822-850. **8** Reilly 2002: Mansfield and Snyder 2005; Mansfield and Snyder 2007; Brancati and Snyder 2011; Brancati and Snyder 2013. **9** Höglund, Kristine, Anna K. Jarstad and Mimmi Söderberg Kovacs. 2009. "The Predicament of Elections in War-torn Societies." *Democratization.* 16(3): 530-557. **10** Mansfield and Snyder 2005; Mansfield and Snyder 2007; Brancati and Snyder 2011;

Brancati and Snyder 2013. **11** Brancati and Snyder 2011; Brancati and Snyder 2013; Przeworski, Adam, Gonzalo Rivero and Tianyang Xi. nd. *Force and Elections: A General Framework for the Analysis of Political Regimes and their Dynamics*, New York University. **12** Lindberg, Staffan I. 2003. "The Democratic Qualities of Competitive Elections: Participation, Competition and Legitimacy in Africa." *Commonwealth and Comparative Politics* 41(3):61–105. **13** Lyons, Terrence. 2002. "The Role of Postsettlement Elections." In *Ending Civil Wars: The Implementation of Peace Agreements, ed. Donald Rothchild* Stephen John Stedman and Elizabeth M. Cousens. Boulder, CO: Lynne Rienner Publications pp. 215–236; Kumar, Krishna. 1998. Postconflict Elections, Democratization, and International Assistance. Boulder, CO: Lynne Rienner Publisher. **14** Brancati and Snyder 2013. **15** Joshi, Madhav, Erik Melander and Jason Michael Quinn. 2015. "Sequencing the Peace How the Order of Peace Agreement Implementation Can Reduce the Destabilizing Effects of Post-accord Elections." *The Journal of Conflict Resolution*: 1-25. **16** International Crisis Group (ICG), *Doing Democracy a Disservice: 1998 Elections in Bosnia and Herzegovina* , 9 September 1998, available at: **http://www.refworld.org/ docid/3ae6a6d0c.html** [accessed 22 March 2017] **17** Harris, David 2006. 'Liberia 2005: an unusual African post-conflict election', The Journal of Modern African Studies, 44(3), pp.375-395, Cambridge University Press. **18** Fischer Jeff. 2002. Electoral Conflict and Violence: A Strategy for Study and Prevention, IFES White Paper 2002/01; Diamond, Larry. 2006. "Promoting Democracy in Post-Conflict and Failed States." Taiwan Journal of Democracy 2(2): 93–116; Reilly, Benjamin. 2002. Post-Conflict Elections: Constraints and Dangers. International Peacekeeping 9(2): 118–139. **19** Matanock, Aila M. ND. Bullets for Ballots: *Examining the Effect of Electoral Participation on Conflict Recurrence*, University of California-Berkeley. **20** Pokharel, Bhojraj, Rana, Shrishti. 2013. "Nepal. Votes for Peace": 101 - 107. **21** Christopher Thornton. (2016 Oslo Forum Background

Papers) "The rocky path from elections to a new constitution in Tunisia: Mechanisms for consensus-building and inclusive decision-making": 10 - 11. **22** Scott Seward Smith. Afghanistan Analysts Network 2012. "The 2004 Presidential Elections in Afghanistan": 2 – 3. **23** López-Pintor, R. (2005). Postconflict Elections and Democratization: An Experience Review (Issue Paper No. 8). Date accessed 23 March 2017 http://pdf.usaid. gov/pdf_docs/PNADB897.pdf.

Image credits

"The lower the consequences of losing the first elections in a transitional setting, the more likely electoral losers are to accept the outcome of the elections, and the less likely violence and instability is to result."

Elections are key for fostering peace and stability in transitional settings and are often, as a result, one of the central elements of peace deals and transitional political accords. Drawing on examples from various countries, this policy paper discusses the dynamics and complexities around the question of the timing and sequencing of transitional elections with a focus on the first electoral cycle. The policy paper emphasises that there is no universal template for all countries as to when is the best time to hold elections, and that any transition towards a stable democratic system will most likely take several electoral cycles.

The Electoral Integrity Initiative in brief

Elections are the established mechanism for the peaceful arbitration of political rivalry and transfers of power. In practice however, many elections actually prove deeply destabilizing, sometimes triggering conflict and violence. This series of policy briefs is part of the Kofi Annan Foundation's Electoral Integrity Initiative, which advises countries on how to strengthen the integrity and legitimacy of their electoral processes and avoid election-related violence. Looking beyond technical requirements, the Foundation focuses on creating conditions for legitimate elections, making it possible to govern in a climate of trust and transparency.

For more information about our ongoing project visit:
elections.kofiannanfoundation.org

Published by

Kofi Annan
FOUNDATION