

Address by Ambassador Janez Lenarčič
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and Human Rights (ODIHR)

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Excellencies,
Ladies and Gentlemen,

Today is a special day. Not only because of the topic I am here to address, but also because this is the perfect day for me to be here. Today we celebrate International Human Rights Day - the 61st anniversary of the adoption of the Universal Declaration of Human Rights, the common standard of achievement for all peoples and all nations in the field of human rights.

OSCE commitments are built on, and elaborate upon, the UDHR. They would not have emerged and acquired the weight they have without the bold step that the adoption of the UDHR represented, and without the pioneering hard work of all of the practitioners in promoting and ensuring compliance with the UDHR. In its way, the OSCE is continuing this work that commenced in Paris in 1948.

Its promise that “the will of the people shall be the basis of the authority of government” (Art. 21.3) is valid until today, and also forms a centrepiece of the OSCE Copenhagen Document, whose 20th anniversary we will celebrate next year.

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And it is also the centrepiece of the topic for today's address here – the report of OSCE/ODIHR Election Support Team to the Afghanistan presidential and provincial council elections, held on 20 August 2009. The report was published on Tuesday.

Afghanistan, as an OSCE Partner for Co-operation, is not bound by, but is invited to follow the commitments agreed upon by the OSCE. Afghanistan has welcomed and embraced co-operation with ODIHR, and we are very grateful for that. Afghanistan is also party to other important international commitments on human rights which touch directly upon our work at ODIHR, including the UDHR and the International Covenant for Civil and Political Rights.

I would like to express my deep appreciation to the Head of the Election Support Team, Mr Toralv Nordbø, who together with 19 experts spent nearly four months in Afghanistan in difficult circumstances. I would like to thank him for his able leadership during this delicate mission. I would also like to express my sincere and deep appreciation for the dedication and hard work of the entire Election Support Team for their work in such a challenging environment. I would like to inform you that despite carefully planned and diligently executed security measures, it was pure luck that we avoided a major tragedy when a bomb destroyed two ODIHR armoured vehicles and when a rocket struck the hotel, only meters away from our staff. This was a shocking reminder of the conditions under which ODIHR was operating. As we all know, many

from other organizations and countries, and many Afghans in particular, were not that lucky.

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At this point I would like to thank the Afghan authorities at all levels for their consistent support and assistance. Also, my appreciation goes to UNAMA, ISAF, UNDP ELECT, Provincial Reconstruction Teams, as well as the European Commission, the EU Election Observation Mission, other international observer missions and bilateral embassies in Kabul. And, of course, I wish to express my gratitude to governments of participating States that provided significant extra-budgetary contributions and made this effort possible.

I also wish to acknowledge great co-operation with the Secretariat, in particular the then-Head of Security Management, who for most of the time participated in the team.

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It will not come as a surprise to you that the last elections – the first to be Afghan-led – were held under extremely challenging circumstances – in a volatile security environment, with a lack of effective measures to prevent irregularities, with widespread fraud on election day, and the failure of the Afghan-formed Independent Election Commission to respond resolutely to malpractices.

These deficiencies heavily damaged public trust in the process.

The root causes of these serious shortcomings are multiple:

- the insufficient international sustained and long-term electoral support after the 2004 and 2005 elections;
- the absence of minimum security conditions for an election;
- the lack of transparency, independence and impartiality of the Independent Election Commission of Afghanistan;
- the challenges posed by poor infrastructure and by geography of the country,

to name but a few.

Our role, and our task under PC Decision 891, was to prepare a report on the electoral process, including a set of recommendations. The ODIHR report makes a sober analysis of the current reality and offers a multitude of concrete and comprehensive recommendations.

As troubling as our August experience may be, we need to reflect on it and look into the future and see how public confidence in the democratic process can be restored. Let me underline five key recommendations of the report, some of which could be acted upon immediately, others that would necessitate longer term implementation.

First, there is a need to understand what went wrong through a pro-active and comprehensive investigation into election day fraud.

Second, fraud prevention mechanisms need to be reinforced before the next elections.

Third, the independence, impartiality, transparency, accountability and credibility of the Independent Election Commission should be strengthened as a matter of priority. Confidence cannot be restored without the appointment of a new commission and without making the appointment mechanism more transparent and democratic.

Fourth, checks and balances should be bolstered to provide meaningful oversight. We suggest to reconstitute the Electoral Complaints Commission immediately and to seek to transform it into a permanent body.

Fifth, domestic observation that acts as a fundamental safeguard through deterrence and detection of fraud should be vigorously supported.

Some of these reforms can and will not take place overnight. They will take energy, enduring efforts and firm political will. However, time for meaningful and necessary reforms is limited, very limited, with the next elections legally mandated to be held in less than six months from now.

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You will note in the report that one of our messages is that serious political consideration should be given to the timing, and to the possibility of postponing, the next elections until at least the most basic conditions for democratic elections are in place.

This conclusion is based on a careful examination of all described shortcomings of the 2009 elections, in particular taking into account the high costs of these elections in terms of lives, resources and credibility. With all this in mind, we could not but ask ourselves whether holding another election under the current challenging circumstances in Afghanistan is really useful and appropriate.

Longer-term reform, possibly more important for the democratic future of Afghanistan, also needs to be addressed without delay. These include:

- a review of the electoral calendar Afghanistan currently faces – which foresees only three years without elections between 2009 and 2027,
- consideration of benefits of possible alternative electoral system that encourages the creation of political parties while protecting the right of independent candidates,
- the need for a stable, comprehensive voter register.

These are challenging topics, all the more difficult as many of them require constitutional and legal changes that are currently hard to achieve due to legal and technical restrictions. This ‘legal deadlock’ will have to be addressed at the highest political level, and in an inclusive manner.

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Let me conclude by saying that it is our sincere hope that the comprehensive recommendations contained in this report, as well as those from 2004 and 2005, and those that will follow from reports of other international organizations will be reviewed and considered seriously before the next round of elections.

I am ready to travel to Kabul in the first part of 2010 to present these findings to election stakeholders in Afghanistan. Electoral reform requires immediate political and expert attention if confidence in the democratic processes is to be restored. Without that, there persists a serious risk of further disputed elections that Afghanistan cannot afford.

Thank you.