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REPORT

**FOR THE GENERAL COMMITTEE ON DEMOCRACY,
HUMAN RIGHTS AND HUMANITARIAN QUESTIONS**

“Strengthening Human Security in the OSCE Region”

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1° The OSCE's election monitoring activities

a) Free elections: the foundation of representative democracy.

In order to qualify democracy, many people quote the definition given by Abraham Lincoln in his *Gettysburg Address* of 19 November 1863: "*government of the people, by the people, for the people*". Albeit attractive, this expression raises many questions. The main one is the issue of the majority when it comes to the degree of representation enjoyed by those who govern. The primary principle on which democracy is based is that of government of the people by the majority. Yet this primary principle makes sense only if, as a counterpart, the majority respects the minority, which is freely entitled to act as the opposition. This is the second fundamental principle, which flows from the first. As a result democracy could be defined as *government of the people exercised by its freely expressed majority while respecting the right of the minority to manifest its opposition*.

Let us come more specifically to the notion of representative democracy. If all opinions can be expressed through it, the people do not truly govern the people. The number of citizens is far too great for democracy to be directly exercised. Instead, in representative democracies, the main activity of the people, delegating their powers to representatives who sit in Parliament, is to take part in their designation through free elections.

The only democratic procedure for that designation is election, in other words through the free choice made by citizens, who may express many different votes. Free and fair elections must, however, meet three main criteria:

- freedom of candidature and, as its corollary, the free formation and functioning of political parties;
- freedom of suffrage, implying universal suffrage, and gender equality;
- freedom of vote, with two requirements: secrecy and equality of conditions of information and propaganda during electoral campaigns.

b) Election monitoring carried out by the OSCE

Free and fair elections are, therefore, one of the pillars of any democratic regime but they also demand the existence of a democratic culture. It must be admitted that this culture is still lacking, for reasons linked to the past heritage and present difficulties, in a number of OSCE participating States. For that reason the OSCE's election monitoring is fundamental for guaranteeing the proper conduct of elections. This activity takes place at two levels.

Election monitoring by the OSCE is generally carried out in accordance with an agreement signed by the President of the OSCE Parliamentary Assembly and the OSCE Chairman-in-Office on 2 September 1997. Its missions consist in promoting democratic electoral processes by means of the scrupulous observation of national and local elections.

The ODIHR must also carry out electoral assistance projects fostering genuine participatory democracy and assist the participating States in fulfilling commitments of a human dimension, by offering its expertise and practical support for the consolidation of democratic institutions.

This mission is accomplished by means of longer-term programmes to strengthen the rule of law, and to promote civil society and practices of democratic governance. The ODIHR must lend its support to OSCE missions on the ground, to carry out its human dimension activities, in particular through training and exchanges of experiences. More than 117 observation missions have been carried out.

The Parliamentary Assembly intervenes in the electoral procedure by sending on the ground observers who are entrusted with ensuring that the electoral operations are properly carried out. Most Parliamentarians arrive a few days before the election itself after extensive preparation through briefings and various reports received in their own capitals

Representatives of the Parliamentary Assembly may also take part in pre-electoral missions. It is during the period preceding the elections that untoward or fraudulent acts may take place. In fact, operations such as registration of voters, the production of electoral rolls, any appeals, the printing and distribution of ballot papers, the installation of polling-stations, or the exertion of pressure on certain candidates. Under the Co-operation Agreement the ODIHR deploys long term observers provided by the participating States, who issue periodic reports which are forwarded to the parliamentary observers when they are issued.

These reports also follow the electoral campaign, during which it is possible to verify whether there is truly free competition among candidates and whether all enjoy equal access to the media, so that a variety of different opinions may be expressed.

It is also important that an assessment of whether or not the elections are democratic should be published as soon as the operations are completed, regardless of any complaints that may be registered later, since the parliamentary work on the respect of the rules is only of interest if it is topical.

It must also be underlined that the observers of the Parliamentary Assembly should work in close cooperation with the ODIHR in order to benefit fully from their support. The greater the involvement on the part of Members of the Parliamentary Assembly the higher the quality of the democratic monitoring work of the OSCE will be.

2° Abolition of “crimes of honour” in OSCE participating countries

Archaic family traditions still exist in certain OSCE participating States. Forced marriage, girls deprived of schooling, vendetta and, above all, “crimes of honour” are some of these traditions or customs that affect the dignity of human beings, in particular females. These practices are also found in communities of immigrants living in a certain number of OSCE participating States.

a. Forced marriage

The practice of forced marriage is not limited to one region of the world. It can be found in nearly all cultures. This practice still relies on old traditions. It is especially widespread among extremely poor communities around the world (especially in Africa and Asia). Nevertheless a distinction should be made between forced marriage and arranged marriage. In arranged marriages, the families of the future spouses play a central role in arranging the marriage, but the final choice of marriage lies with the two persons concerned. Poverty is probably the main cause for child marriages. Early marriage threatens not only girls' rights but also boys'.

In industrialized countries, women seldom marry before the age of 18 (4% in the United States and 1% in Germany), with the exception of some central and eastern European countries with still fragile economies. Other causes of forced marriages should also be highlighted: illiteracy, the preponderance of tradition, lack of activities that generate revenue, ignorance of the law, outmoded laws, fear of out-of-marriage pregnancies, confusion between religion and tradition, low rates of female participation in decision-making and corruption.

The consequences of these practices may be disastrous. Early or forced marriage has profound physical, intellectual, psychological and emotional effects. For girls, early marriage is nearly always synonymous with undesired pregnancy; it may also be tantamount to domestic drudgery or sexual abuse over which they have no control.

In certain European States participating in OSCE, girls are married by their families to men of African origin. They regularly visit their "families-in-law" to meet their supposed wives on whom they inflict sexual acts with the connivance of everyone. These are traditional unofficial marriages suffered by girls who are sometimes under age.

There is an awareness of the need to take measures against this kind of practice in numerous OSCE participating States. These measures are taken at legislative level but also in the field of education. NGOs lend their support to the victims of these practices and thereby help to raise public awareness.

b. So-called crimes of honour

So-called crimes of honour, frequent in the Middle East and Asia, are traditional acts of family revenge carried out against women suspected of being "impure" to "save" the family's reputation. This phenomenon is also widespread in western countries, affecting second-generation immigrants, torn between the more permissive society in which they have grown up and the strict upbringing that their parents seek to inculcate in them. This phenomenon is accentuated by failures at school and at work. To compensate for these humiliations, these young people focus on traditional values that seem to give their life some meaning.

It often occurs that to rid themselves of an "affront", families meet in "council" to appoint the member of the clan, often someone under age, so that he will be liable to lighter penalties, who will be entrusted with executing the woman who has brought the family into disgrace, usually because she had an extramarital affair. Sources indicate that in one OSCE participating State certain women have been executed for merely talking to a stranger or even for asking for a song to be played on the radio.

In immigrant communities in OSCE participating States, women are victims of this type of crime. They are all the more vulnerable in that they feel isolated and marginalized by their host societies. Often unable to speak the language of their host countries, they are most exposed to violence of all kinds and are denied access to State legal aid or are unaware of their rights. Moreover, the threat of expulsion in many cases gives their situation an even more complex dimension.

Numerous official sources indicate that a large number of crimes perpetrated in the name of passion or honour remain unpunished or result in lighter penalties than other crimes brought before the law.

c. “Vendetta”

Vendetta is the term used to describe revenge for a murder or a mere offence involving all relatives and bringing into conflict two families over a long period. This practice is still current in certain OSCE participating States. It sometimes generates genuine conflicts and may also be used as a tool of political domination, over a village or even a larger territory. The aim is always the same: to eliminate the adversary, to feed the motives for the vendetta, to enable the clan to stand together. In order to eliminate a political adversary by obliging him or her to retire from the public arena, the use of vendetta has proved to be highly effective.

It is urgent that the OSCE should appeal to the participating States to take action against these archaic practices that affect human dignity, in particular that of women, and that go against the Organization’s democratic ideals.

3° Parliamentary control of the police and security services in OSCE participating States

In a certain number of OSCE participating States parliament exercises control over the police and security services. The ways and means of these controls vary from State to State and according to the different police service structures. In other States this control is woefully lacking. After all, according to the rule of law the police must be accountable to the State, the citizens and their representatives. They must be subject to efficient external controls. This control of the police by the State must be shared among the legislative, executive and judiciary powers.

The authorities must put in place effective and impartial procedures of appeals against the police. Encouragement should be given to creating mechanisms that increase liability and rely on communication and understanding between the public and the police. Codes of police deontology, based on democratic principles, must be elaborated in the participating States and overseen by the appropriate bodies.

The criminal justice system plays a decisive role in protecting the rule of law and the police have a vital role to play within that system.

It should also be underscored that the public’s confidence in the police is closely linked to its attitude and behaviour towards the public, in particular in respect of human

dignity and fundamental human rights and freedoms, as they are enshrined in the European Convention on Human Rights.

In Belgium, the law of 18 July 1991 on monitoring the information services and the police provided for the creation of a standing supervisory committee known as “Committee R” and another committee known as “Committee P”. Their members are not parliamentarians but they are appointed respectively by the Senate and the House of Representatives. Their controls mainly concern the respect of fundamental rights by the information and police services, and their coordination and effectiveness. Later, in 1999, a standing committee entrusted with monitoring “Committee R” was created in the Senate, and another standing committee to monitor “Committee P” was created in the House of Representatives.

In France, the National Assembly controls the police services by means of written and oral questions, which its members may put to the Government. It is by this means that a yearly record of sanctions taken against police officers is made public every year.

In Norway, there is a parliamentary Commission for monitoring the police and information services, which continually monitors their activities.

In the Czech Republic, a special standing committee for controlling the operational techniques of the police is created by the Chamber of Deputies at the beginning of each legislature.

In Denmark, Parliament has set up a special committee to control the activities of the police and information services.

These few examples show that the rule of law depends on parliamentary controls over the police and security services.

This parliamentary control also extends, in a certain number of OSCE participating States, to the intelligence services, according to various ways and means, which often prove inadequate. Yet this control seems vital if any misdemeanour is to be avoided, since the risk of abuse of power and the violation of human rights is high. The right balance must be struck between protecting national security in a democratic society and protecting citizens’ rights (protection of privacy, freedom of expression, etc.), especially since the concept of national security remains vague in many countries.

Although it seems unrealistic to expect intelligence services to exercise their activities in total transparency, it must be guaranteed that these activities are carried out in the legal framework within which they are operating. In these conditions, the control cannot simply be internal, in other words, entrusted to officials or the ministries or agencies to which the services belong.

Generally speaking, the structures of parliamentary control already in place largely depend on national traditions, the existence of a culture of information, even the existence of cultural handicaps.

In a good many OSCE participating States, this parliamentary control of security services is still largely lacking. While this situation may result from the past heritage and/or a

relatively recent transition towards democratic institutions, it is desirable that it be put in place in order to avoid any incident that may affect citizens' rights.

4° Strengthening the protection of national minorities in the OSCE participating countries

The resolution on national minorities adopted by the OSCE Parliamentary Assembly at its July 2004 session stressed the fact that the protection and action in favour of the rights of persons belonging to national minorities were factors of the greatest importance for democracy, peace, justice and stability in the participating countries and in their mutual relations. The resolution recalled that a pluralistic and genuinely democratic society should not only respect the ethnic, cultural, linguistic and cultural identity of each person belonging to a national minority but also create conditions likely to enable them to express, preserve and develop that identity.

The resolution noted the need for certain OSCE participating countries to take new measures in order to ensure the effective protection of national minorities and to contribute to the fulfilment of the rights and freedoms of persons belonging to those minorities, in accordance with documents pertaining to the United Nations, OSCE and Council of Europe.

Progress has been made since 2004. For example, Latvia ratified on 6 June 2005 the Framework Convention for the Protection of National Minorities.

The question of these minorities is often influenced by historical, ideological, political, legal and economic parameters. It becomes a complex issue when there is a need to reconcile the protection of the identity of minorities and guarantees of models of social integration. In some cases, the authorities do not have the means to resolve recurrent problems. It seems obvious that the failure of a system for the protection of minorities leads to the isolation of the minority group, and consequently to its exclusion from society or, on the contrary, to assimilation and consequently to its disappearance.

The language issue is obviously a sensitive one. The obligation to master, to some extent, the official language of a country to integrate into society or find employment has often thrown into disarray many members of minority communities. Generally speaking, the integration of minorities into political and social life is a challenge for the construction of a democratic State, at a time when the model of the nation-State is sometimes being called into question in western Europe.

The geopolitical aspects of the situation of certain OSCE participating countries must also be taken into account. The minorities in these countries are still linked to the countries they came from and their links may be the source of tensions, not to say conflicts. It is also important to take an interest in the plight of the "new" minorities resulting from migrations over recent decades.

Thanks to the action of the OSCE, the European Union and the Council of Europe, progress has been made towards making legislation on linguistic rights and the acquisition of citizenship more flexible. Progress still has to be made since it is obvious that this does not depend solely on the will of politicians. This progress mainly depends on interethnic relations

and the changes in the representation of the majority and minority communities vis-à-vis one another.

It is desirable that the action undertaken by the OSCE to protect national minorities and “new” minorities be pursued in order to contribute to the strengthening of the democratic State and political stability.

5° Promoting the freedom of religion and belief in the OSCE participating countries

The freedom of religion or belief is a fundamental right for all citizens. It has been noted, however, that several OSCE participating States still have legislation that discriminates against religious communities. The application of these laws restricting religious freedom is a sign of the alarming intolerance affecting religious minorities.

The origin of this intolerance is not easy to identify. There are economic, political, cultural and even historical reasons that manifest themselves to different degrees. Ignorance is another factor that fosters intolerance.

In some cases, religion is identified with nationality and is a source of discrimination. It should be noted that this intolerance is even spreading to certain parts of education and the press. Numerous pupils may be the victims of insults, threats or physical violence at their school as a result of their religious belief. In some OSCE participating States, the media convey misleading images of religious minorities and help to create or aggravate this climate of intolerance.

Special attention must be paid to the status of immigrant and local Muslim minorities and majorities in OSCE participating States. Many States are adopting a raft of measures to receive and integrate their Muslim communities whereas in other countries this is not the case.

In the OSCE area, religious discrimination and intolerance towards Muslims is closely related to racial and ethnic hatred, the rise of xenophobia, social unrest and international political conflicts. The same is true of the rise of anti-Semitism, largely fed by the ongoing absence of prospects for peace in the Middle East. The confusion between Muslims as a whole and extremist groups in favour of the use of violence who hijack religion for that purpose, is likely to provoke tensions between communities and serve as a pretext for discrimination.

The OSCE participating States must undertake to eliminate all forms of discrimination based on religion or belief and to promote a genuine dialogue among communities in a spirit of tolerance.

6° Code of conduct for participants in OSCE missions

In the context of the resolution adopted by the Parliamentary Assembly in Washington in July 2005 on the need to strengthen the code of conduct applicable to members of OSCE missions, a letter was sent to all Ministers of Defence of the OSCE participating countries to ask them what measures have been or will be taken to prevent their staff members taking part

in international peacekeeping missions from being involved in the trafficking of human beings, the exploitation of sexual services or other abuses against persons.

So far some 15 Ministers of Defence have answered the questions on the measures taken or contemplated to curb such behaviour. Generally speaking, the officials expressed their commitment to ensure that such actions should be prevented, both by improving the training given to staff employed in these operations and by strictly applying the existing regulations. They also committed themselves to sanctioning, with considerable severity, any transgression of those regulations.