



STATEMENT OF THE NDI PRE-ELECTION DELEGATION TO ARMENIA

Yerevan, November 23, 2002

This statement is offered by an international pre-election delegation organized by the National Democratic Institute for International Affairs (NDI). The delegation, which includes members from Germany, Portugal and the United States, visited Armenia from November 18-25, 2002. Members of the delegation have participated in more than 50 pre-election assessments and international election observation delegations on five continents, including 10 such delegations to the Transcaucasus.

The purposes of the delegation are to express the international community's interest in and support for democracy in Armenia, to assess electoral conditions and the political environment in which the 2003 presidential and parliamentary elections will take place and to offer an accurate and impartial report on the pre-election situation. The delegation has conducted its assessment on the basis of international standards and comparative practices for democratic elections. NDI does not seek to interfere in the election process, nor does it at this point intend to render a conclusive assessment of the process. Ultimately, it will be the people of Armenia who determine the meaning and validity of the 2003 elections.

I. SUMMARY OF OBSERVATIONS

Armenia continues to suffer from its troubled electoral history. While improvements have been made in some respects, critical areas remain to be addressed if credible democratic elections are to be achieved. It is essential that these problems be corrected and a clean break be made from past illicit practices in advance of the 2003 elections. Otherwise, public confidence in the election process and governmental institutions will not be established, and Armenia will put its democratic development in jeopardy.

The country has yet to meet its international commitments to hold democratic elections. The establishment of a valid legal framework and the good practices of many electoral actors demonstrate that Armenia has the capacity to organize genuine democratic elections. The principal issue that Armenia must confront in the electoral arena is mustering sufficient political will to ensure that: fair campaign conditions are provided; election commissions and government bodies act impartially; political parties and other interested forces act within the law, while parties guard their legitimate electoral interests; and voters have a free choice that is accurately tabulated and respected. It is not enough to establish a legal framework for democratic elections. Electoral practice in 2003 must at least meet minimum standards for genuine elections in order for Armenia to integrate itself into the international community of democracies.

The essential areas of electoral practice that must be addressed relate to: implementation of the legal framework for elections; impartiality and effectiveness of election commissions; problems

with the voter registry that create real possibilities for both disenfranchisement of eligible voters and the opportunity for illegal voting; vote-buying and intimidation of voters, party and candidate proxies (agents), election workers and nonpartisan election monitors; ensuring a free and informed vote by military personnel; insufficient training of election officials concerning voting and vote tabulation procedures, the proper role of candidate and party proxies, election observers and the media; establishing comprehensive safeguards and transparency in tabulation and consolidation of voting results at and in electoral bodies above the polling stations; inappropriate use of state resources for electoral advantage; failure to enforce the law concerning election violations, which has created an impression that fraudulent acts may take place with impunity; and lack of impartiality in the state-controlled broadcast news media.

These issues result from recurring problems in Armenia's electoral practice. In the face of such problems, extraordinary efforts are required by the government and election authorities to demonstrate that the 2003 elections will be properly conducted. Authorities must take the extra steps to eliminate the *perception* of malfeasance, as well as to ensure proper action. While this is a difficult task, authorities must demonstrate sufficient action to cause the public to believe that the upcoming elections break with the past. At the same time, political parties and candidates must join in these efforts and take decisive action within their ranks to end fraudulent practices, such as intimidation, vote-buying, buying and trading of positions on election commissions and tampering with ballots and electoral results.

The delegation is encouraged by the continued, significant improvements of the electoral code first adopted in 1999 and amended in July 2002. This strengthening of the legal framework is an important achievement. It is hoped that further improvements will be made to the legal framework for elections in response to recent proposals offered by political parties, the nonpartisan Armenian election monitoring organization It's Your Choice and the international community.

Among the significant elements of the July amendments was abolishing the provisions that allowed parties to remove their nominees to election commissions at will and at any time up to the elections (which facilitated buying and trading of positions on commissions). Unfortunately, there were reports of last minute changes in the membership of some commissions in the October 2002 local elections. While these may have occurred at the personal initiative of the commission members who resigned, the relatively high number of changes in some locations indicate that this problem still must be overcome in practice. The July amendments also eliminated the 11 Regional Election Commissions, which were central points of past electoral problems, and the amendments established in their place 56 Territorial Election Commissions corresponding to each single-member parliamentary district. This development should speed the tabulation of election results, while it creates the challenge of providing transparency at a larger number of intermediate election bodies. In addition, members of election commissions were provided greater legal protections as they properly discharge their duties; this could help to improve impartiality of the commission members.

In another encouraging development, the legal recognition of nonpartisan Armenian election monitors is maintained in the electoral code and large numbers of domestic observers monitored the October 2002 local elections. The introduction of a standard mark for balloting, which is intended as a safeguard against illegal voting, was welcomed by political parties and observers, and the peaceful nature of the October elections also was a positive development.

II. THE ELECTION CONTEXT

The 2003 presidential elections, constitutional referendum and parliamentary elections will take place against a backdrop of widespread irregularities and fraudulent practices in past elections. None of the country's prior polls have met minimum international standards for democratic elections. This remains a crucial factor in Armenia's electoral context, even though the 1999 parliamentary elections and the October 2002 local elections improved incrementally over earlier polls.

According to a number of political parties, as well as domestic and international nonpartisan election observers, the October 2002 local elections improved somewhat over the past but nonetheless were marked by serious problems. International and domestic election monitoring reports illustrate that Armenian authorities face a continuing, major challenge to meet the country's international commitments and domestic legal requirements. Meeting this challenge is made all the more important because elections reflect the level of respect for human rights and the rule of law more generally, and electoral legitimacy can have a significant effect in attracting resources for economic development. The clear popular mandate derived from democratic elections also provides political stability.

The Legal Framework. Armenia's electoral code, as adopted in 1999 and amended through July 2002, provides a foundation for the proper conduct of elections. The 1999 code improved the legal framework in several respects and responded to recommendations from parties, domestic election monitors and international organizations, including the OSCE/ODIHR, Council of Europe, UNDP, IFES and NDI. Among the key improvements were: recognizing the right of nonpartisan Armenian organizations to monitor the election process; providing party and candidate proxies and nonpartisan observers with copies of the protocols (tallysheets) following the vote count at polling stations; eliminating intermediate electoral commissions at the community level; and providing that no one could be added to supplemental voter lists on election day without a court certificate.

The July 2002 amendments, a number of which also responded to domestic and international recommendations, mostly addressed technical matters but added a number of additional positive features to the legal framework for elections. The key improvements, which are discussed above, add important safeguards against partisan forces "capturing" precinct and intermediate election commissions and using them to impose electoral outcomes that negate the will of voters. The improvements also provide greater incentive for commission members to act independently and impartially. In addition, abolition of the Regional Election Commissions eliminates a major locus of irregularities and manipulation in past elections. It is hoped that the new Territorial Election Commissions (TECs) will improve the efficiency and integrity of the process.

As discussed below, the code provisions concerning the composition of election commissions were also amended; however, the formula adopted still does not adequately solve the problem of establishing public confidence in the impartiality of electoral authorities. Additional steps, which do not require amendments to the code before the 2003 elections, will therefore be necessary to demonstrate impartiality and competence of election commissions at all levels, including safeguards and enforcement mechanisms to ensure electoral integrity.

Composition of and Confidence in Election Commissions. The composition of election commissions in Armenia, as in many countries, is a highly controversial issue. This is particularly true in countries that have experienced recent electoral manipulation. International experience shows that the damage done to the confidence of the public and of electoral contestants is not easily repaired unless a broadly inclusive process is used to select commission members. Uncertainty and suspicions can undermine the commissions' abilities to accomplish their work in the absence of a consensus along a broad spectrum of political contestants in the impartiality and effectiveness of each member of the highest election commission and in the subordinate commissions. These factors can also undermine public acceptance of the legitimacy of the election results.

Commission Composition: The July 2002 amendments to the electoral code reduced the number of members of the Central Election Commission (CEC) from 13 to nine. The new CEC has three members appointed by the President and six others, one each appointed by the six parliamentary factions. In the recent past, election commissions included three persons appointed by the government, five appointed by parliamentary factions and five appointed by the first five extra-parliamentary parties that submitted the required 30,000 signatures to qualify for the elections. Debate continued this year concerning whether the formula for appointing commission members should include appointees from extra-parliamentary parties. While there is merit in reducing the number of commission members, the formula for appointment of CEC members (which is then mirrored in the composition of Territorial and Precinct Election Commissions) does not solve the issue of ensuring both impartiality and its public perception.

Future deliberations on electoral law amendments should consider ways of ensuring confidence of a broad spectrum of political contestants in the impartiality of each member of election commissions. There are several ways of achieving this, such as requiring a supermajority vote of parliament for the appointment of each CEC member, no matter what sector makes the nomination. The key will be to move beyond formalistic approaches in order to establish broad confidence in the commissions and their work.

Confidence-Building Measures: This nonetheless leaves the present election commissions with the challenge of establishing confidence in their work. A number of possibilities merit consideration in this respect for the run-up to the 2003 elections. For example, the electoral code provides that all political parties with candidates in the elections are allowed to send representatives to attend the work of election commissions at all levels; these commissions should be required by the CEC to inform all parties of the commission sessions and post meeting times in advance at an accessible public place. Proxies also should be allowed to attend training sessions for election commission members. This would allow the proxies to learn more about election procedures and build trust in the process.

The CEC and the Territorial Election Commissions could set up political party liaison committees and hold regular meetings with party representatives to simultaneously provide them all with the same, timely information and provide a venue for them to air concerns or grievances about the election process. Broad publicity about such efforts would help the public gain confidence that the process for the 2003 elections is open and aimed at achieving a free and fair outcome.

Substitution of Commission Members: The July 2002 amendments to the electoral code were intended to end the practice of political parties and candidates selling or trading members of Precinct Election Commissions (PECs). The amendments abolished the power of parties and candidates to remove election commission members. The members, however, are allowed to resign.

According to a number of persons with whom the delegation met, significant numbers of commission members did resign, at least in certain localities. For example, the October 22 Press Release of It's Your Choice, which mobilized approximately 500 observers for the elections, notes that there were 39 substitutions of PEC members in the 47 precincts of the Arabkir community of Yerevan within the last 48 hours before election day. While this could be the result of coincidental resignations for proper reasons, the number suggests the possibility that parties or candidates may have encouraged or forced resignations for improper purposes.

The CEC has an opportunity to review all of the substitutions of PEC and TEC members for the October 2002 elections to determine whether patterns emerge that warrant investigation. A report on such a review and any investigations could help reinforce confidence of political parties and 2003 PEC and TEC members. The CEC also should consider setting up a rapid inquiry team to review suspicious patterns of resignations in the period immediately before future elections so that it is in position to act quickly to prevent attempted manipulations by selling or trading commission member positions.

Full Transparency in Tabulating Election Results. As a consequence of provisions in the 1999 election code, party and candidate proxies, nonpartisan Armenian election observers and other specified persons are allowed to be present in polling stations during the voting and counting processes and are allowed to observe procedures in the higher election commissions. In addition, proxies and nonpartisan observers are to be provided with copies of the protocols (tallysheets) after ballots are counted at the polling stations. These are important though incomplete transparency provisions that should significantly increase confidence in the tabulation of election results. However, at the higher election commissions the results of tabulating vote counts from subordinate election commissions is released only in the aggregate form. This hinders precinct-by-precinct verification of results and creates the possibility of questions and doubts being raised about the validity of results.

The OSCE/ODIHR, the Council of Europe's Venice Commission and a recent open letter to the CEC from a number of embassies and international organizations have recommended that the CEC order the reporting of results from the TECs and at the CEC which show the precinct-by-precinct vote counts leading to the TEC totals and the results from lower election commissions that lead to the CEC's final results. The TECs and the CECs should record results from lower election commissions as they tabulate aggregate results. These spread sheets (protocols or tallysheets) could easily be made available to proxies and observers and could be posted publicly. While it is preferable that the electoral code be amended to require this, it is essentially an administrative matter and should not require a change in the electoral law. It would permit verification of results by a number of techniques, which would allow political parties, candidates, nonpartisan election observers and the news media to immediately establish confidence in the electoral process and would facilitate acceptance of official results.

The delegation not only supports this recommendation by various elements of the international community; it also notes that parallel vote tabulations by political parties, nonpartisan election observers and the news media are also important confidence building measures (whether based on comprehensive compilation of protocols from PECs or verifications based on random statistical samples of polling station results). The delegation encourages the development of parallel vote tabulations in Armenia.

Improving the Voter Lists. A major problem in Armenian elections has been grossly inadequate voter lists. While improvements were made for the 2002 local elections, the voter lists remain a continuing serious concern for political contestants and nonpartisan domestic and international observers. The October 21 election observer delegation statement of the Council of Europe's Congress of Local and Regional Authorities of Europe, for example, reinforces this point as have past observation reports by OSCE/ODIHR, NDI and others.

To date there has been no systematic independent verification of the voter lists, however, it is universally admitted that the emigration of a vast number of people due to economic dislocation, the large numbers of people affected by the 1988 earthquake, the failure to remove the names of many deceased persons from the lists and the presence of a sizable refugee population have resulted in inaccurate voter lists. This creates a real potential for illegal voting in the form of impersonation of persons outside the country and ballot box stuffing matched with forging signatures of persons on the voter lists known to be dead or absent. In addition, in the 1999 and 2002 elections significant numbers of people who were present and eligible to vote were omitted from the voter lists, which caused disenfranchisement. The delegation hopes that the computerization project that is to update local population registries progresses significantly before the 2003 elections. This could help improve the voter lists, because the new registries should have the capacity for easily extracting updated sub-files to create voter lists.

A positive element of the 1999 electoral code was the provision that prohibited adding names of people to supplemental voter lists on election day unless they obtained a court certificate. Problems with the voter lists caused large numbers of people to seek such court orders, which at times caused people to give up their right to vote in the face of a cumbersome process. Fewer people sought court certificates in the 2002 local elections, and the CEC has ordered that such persons be added to the regular voter lists for the upcoming elections. That should relieve the problem somewhat. However, major efforts are still needed to clean up the lists. This need will likely be increased in part because refugees, who were allowed to vote in the October local elections should be removed from voter lists, and military personnel, who were not allowed to vote in the local elections, should be on the voter lists for the presidential election, constitutional referendum and proportional balloting in the parliamentary elections.

A broad publicity campaign also is needed to inform the electorate so that citizens can check the voter lists where they are posted, verify their presence on the lists and, along with political parties, can make claims and objections for correcting the lists. The legal requirement that the voter list be posted 40 days in advance of voting also should be respected. In addition, a uniform procedure is required for obtaining court certificates, and civic education is needed concerning the procedure. It is encouraging that judicial education has been conducted to help the courts process voters' election day requests for certificates, and further instruction may be required to insure the courts apply a uniform procedure in reviewing requests for voter certificates.

Doubts about the lists will remain a significant factor in the electoral context until a thorough revision of the voter lists is completed that includes observation of the revision process by political parties and nonpartisan observers or until an independent verification of the voter lists is conducted by the parties and/or by nonpartisan Armenian election monitors. This is because gross inaccuracies in the voter lists served as the basis of fraud in past elections, examples of which have been well documented by international observers and others.

Vote-Buying and Intimidation. One of the most invidious elements of past electoral manipulation in Armenia has been vote buying and intimidation of voters, polling station officials and others by political contestants and unscrupulous elements acting to bring about pre-determined election results supplanting the free will of the electorate.

Vote Buying: Practically all of the political party leaders with whom the delegation met decried vote buying by other parties. They suggested that parties must engage in the practice because others are doing it, and noted that the cost of vote buying is becoming ever more expensive. The pronounced poverty and economic dislocation in Armenia makes accepting bribes for votes a real temptation. However, bribes not offered cannot be accepted, and the political parties must accept responsibility as well as a moral obligation for ending the practice. Moreover, vote buying cannot be separated from intimidation of voters. Pressure accompanies the bribe in most cases along with a threat of repercussions if the potential voter does not go along with the proposition.

Voter Intimidation: “Carousel voting” schemes, a form of electoral fraud, usually involve a small pay-off. However, the so-called “neighborhood guys” who conduct these and pre-election vote-buying operations also threaten uncooperative voters. Gangs of neighborhood guys also often hang around polling stations, threatening people who they know support parties or candidates they oppose. Such elements also often enter polling stations as unauthorized persons, as so-called independent observers or even as party or candidate proxies in order to illicitly influence polling results.

The Council of Europe observer delegation to the October 2002 local elections and other sources noted examples of intimidation by groups of men at polling stations. Polling officials and law enforcement bodies should be trained in ways to detect and stop such practices. Changes in the law prohibiting gatherings close to polling stations, prohibiting unauthorized persons from entering the polls and providing identity cards to authorized people are helpful, but they must be implemented.

Intimidation of Election Officials, Proxies and Others: Coercive activities have reached beyond voters and have been directed at polling station officials, party and candidate proxies and nonpartisan election observers. Such tactics have been witnessed by international and domestic observers alike. The apparent goal was to control a polling station in order to ensure a pre-determined election result. Better training of polling officials on the proper role of proxies, observers, news media and law enforcement officials inside the polling stations and at the Territorial Election Commissions will help counter this. Training of law enforcement authorities will also be beneficial as will be enhanced training of political party and candidate proxies.

Political Party Code of Conduct and Inter-Party Dialogue: Political parties and candidates themselves must act decisively to end practices of vote buying and intimidation. Parties could send an important signal to each other and to the public if they were to voluntarily negotiate a code of conduct pledging to abide by the law and respect each other’s and the voters’ electoral rights. International experience shows that when such codes of conduct represent more than a ceremonial exercise they can enhance public confidence in the election process. To go beyond ceremony, such codes must contain mechanisms to hold parties and candidates accountable to their pledge; they also must address details of fair treatment. Including respected witnesses (such as nonpartisan domestic election observers, citizens highly regarded for their integrity and impartiality and in some cases international organizations) can enhance the effectiveness of such codes. Including provisions for

regular meetings and for calling meetings of the signatories to discuss violations of the provisions at national and local levels are essential if the codes are to be effective.

Monitoring elections at the national level is a difficult undertaking for political parties in emerging democracies. Inter-party dialogue and cooperation is therefore of utmost importance. The role of the political parties cannot be replaced by other actors, not even by domestic or international election observation efforts.

Pre-election Campaigning. During the last two elections, no political parties were legally excluded from the process, electoral contestants were able to campaign freely around the country, and the campaigns transpired under relatively peaceful conditions. These are important positive factors. However, a number of other conditions adversely affected the fairness of campaigns.

Political Neutrality of State Authorities and Resources: While it is difficult to document how state resources may be used to the electoral advantage of certain electoral contestants, long-term observers with the OSCE/ODIHR and others have noted that local authorities organized campaign meetings and ordered government employees to attend them and in other ways have used their office and state resources in attempts to influence electoral outcomes. Opposition political parties complained to the delegation that it is difficult to secure educational and cultural sites for meetings, while parties that support the government use such facilities with relative ease. Observer delegations have expressed concern that the conditions for military personnel potentially undermine a free vote. In addition, state-controlled broadcast media, particularly national television, do not provide balanced and fair coverage of opposition leaders and their political parties.

The strong public statement by President Kocharian prior to the October 2002 local elections explicitly forbidding law enforcement bodies from helping any candidate was a welcome development that many credit with helping to improve the process. The President threatened to “strictly punish” law enforcement officials who attempted to affect the electoral results. It is hoped that similar pronouncements will be made in advance of the 2003 elections.

The delegation was encouraged to learn from Prime Minister Andranik Margarian that he has instructed ministers to ensure that the government authorities remain politically neutral in the 2003 elections and that they should work to create an environment conducive to fair elections. It is hoped that these instructions will be issued publicly along with his admonition that violators will be held accountable. Ministers should join the President’s and Prime Minister’s efforts and act to guarantee that state resources and those holding governmental offices ensure politically neutral uses of government authority. Forceful pronouncements, followed by specific instructions that make clear that violators will face harsh sanctions could help promote electoral integrity.

Free and Informed Voting by Military Personnel: Military personnel will be allowed to vote in the presidential and proportional representation component of parliamentary elections, as well as in the upcoming constitutional referendum. The electoral code provides that soldiers may not be marched in formation to polling stations. However, the military command, in cooperation with the CEC and political contestants, should develop specific procedures to ensure that military personnel receive adequate information about all of the electoral contestants to ensure informed choices at the ballot box. In addition, the President or appropriate military commanders should issue public orders that no officer, noncommissioned officer or other military personnel may attempt to use their authority to influence how others in the military vote. Civic education about

secrecy of the ballot and the importance of voting also could make a significant contribution to free and informed military voting and could contribute to public confidence in the election process.

Balance and Impartiality in the Broadcast Media: The mass communications media are critical to genuine democratic elections. Voters need sufficient and accurate information about political contestants in order to make a free choice. In Armenia, the printed press is diverse but has a very limited circulation, which places a greater burden on broadcast media. The media are also essential to the political contestants' efforts to reach the public and win their votes. In addition, the role of the media in conveying information about issues that are relevant to electoral decisions contributes greatly to creating a democratic process.

The press is free to criticize government in Armenia. Political competitors can gain press coverage in a variety of sources, and there is pluralism of editorial opinion among the print media. Journalists report that there have been incidents of threats and pressure against some journalists and media outlets, and self-censorship is a factor with which to contend, but that freedom of expression is established in many respects. This is not as established in the broadcast media, however. It is troubling that the only well established private television channel, A1+, recently lost its broadcast license during a tender process in which a new entity won the frequency. This channel had developed a professional staff and is widely held to have provided accurate news and a voice for the political opposition, as well as for the government. Another independent television effort, Noyan Tapan, has not been successful in the tender process, which has now been postponed. These developments cause concern because pluralism in the broadcast media is restricted in the lead up to the 2003 elections.

In addition, the state-controlled national TV Channel 1 is the only channel to reach a nationwide audience. In the 1999 elections, the European Institute for the Media documented disproportionate coverage of those in government over the opposition, while government sources were covered mostly positively and the opposition was covered mostly negatively. Systematic media monitoring has not been conducted in Armenia on an ongoing basis, but many sources report that the pattern is essentially unchanged. The electoral code provides access for political competitors in the electoral campaign, and many sources report that state-controlled radio is more politically balanced. Biased news coverage, however, can negate access provided for political campaign messages. Providing accurate and balanced news coverage of political competitors in and outside electoral periods is essential, and effective steps to achieve this are needed in the immediate period ahead.

Impunity Versus Accountability for Electoral Offenses. Despite the numerous examples of electoral fraud and manipulation since Armenia's independence, many reported to the delegation that no one has faced trial for an election offense. The failure to prosecute electoral crimes and the lack of application of administrative sanctions has led to a perception among the public that electoral intimidation and electoral fraud can be perpetrated with impunity. There is no reason why bribery and fraud at any point in the election process should be accepted. Accountability for such acts must be established to ensure electoral integrity and to establish public confidence in elections. The Ministry of Justice should consider setting up special prosecutors offices around the country to pursue vigorously violators of electoral rights and infractions of the election code. Application of the rule of law in the electoral context has certain unique elements that could be covered through training programs for police, prosecutors and judges. The special training about procedures for granting voter certificates on election day could provide a format for broader election related issues.

In addition, legal literacy and “know your rights” civic education would be important for the general population as well.

III. THE DELEGATION AND ITS WORK

This NDI pre-election delegation included: Patrick Merloe, NDI Senior Associate and Director of Programs on Elections and Political Processes; Fernando Marques da Costa, Political Advisor to the President of Portugal and former Member of Parliament; Alexander Longolius, former Member and President Pro Tem of the Berlin House of Representatives; and Carol Migdalovitz, Specialist at the Foreign Affairs, Defense, and Trade Division of the United States Congressional Research Service, responsible among other countries for Armenia. The delegation was joined by Marilyn Evans, Director of NDI’s Armenia office, and Gegham Sargsyan, NDI/Armenia program manager and political consultant.

The delegation’s observations are based upon an extensive series of meetings with: candidates and political party leaders; representatives of the government, including leaders of each of the political parties represented in Parliament, as well as a number of extra-parliamentary political parties that are part of the new 16-party alliance; Prime Minister Andranik Margarian; Minister of Foreign Affairs Vardan Oskanian; Chairman of the Central Electoral Committee Artak Sahradian; Speaker of the National Assembly Armen Khachatryan; former President of the Republic Levon Ter-Petrossian; former Prime Minister and Speaker of the National Assembly Khosrov Haroutiunian; leaders of Armenia’s nonpartisan election monitoring organization It’s Your Choice, the Sakharov Human Rights Protection Armenian Center and other civic leaders; representatives of the news media; and representatives of the international community, including among others the Embassies of the United States, the United Kingdom and France, the Organization for Security and Cooperation in Europe and the Council of Europe, and international nongovernmental organizations.

The delegation reviewed the Constitution of the Republic of Armenia, the Electoral Code, as well as assessments of the proposed and adopted amendments to the Electoral Code issued by OSCE’s Office for Human Rights and Democratic Institutions (OSCE/ODIHR) and the Council of Europe’s Venice Commission, as well as reports on the October 2002 local elections and prior elections by OSCE/ODIHR, Council of Europe, It’s Your Choice and other organizations. The delegation was also informed by prior reports on Armenia’s election and political processes produced by NDI and other international nongovernmental organizations concerned with the election process.

The Institute has worked with Armenian political parties and candidates across the political spectrum since 1995 to enhance their capacities in organizing themselves as more effective, competitive and sustainable democratic organizations. NDI also has supported the efforts of Armenian civic organizations to increase public participation in the political process, including assisting It’s Your Choice and other organizations in nonpartisan election monitoring, conducting civic education and organizing public hearings, candidate debates and town hall meetings to bring candidates and governmental officials together with citizens to address issues of citizen concern.

NDI has conducted more than 50 international election observer delegations and more than 50 pre-election delegations around the world, including to Armenia’s 1999 elections. NDI also worked with OACE/ODIHR in observing Armenia’s 1998 elections. These activities are conducted

independently of other programs that the Institute may be undertaking in the country and are done in strict conformance with international standards for election observation and domestic law.

IV. RECOMMENDATIONS

Based upon NDI's global experience and in the spirit of international cooperation, the delegation offers the following recommendations in hopes of assisting those striving to achieve genuine democratic elections. Many of these recommendations support those recently offered by others in the international community.

Ensuring Impartiality of Election Commissions: The controversy over the best method in Armenia's context for establishing impartial electoral commissions should be taken up again after the elections in an effort to appoint commissions based on a broad consensus for appointment of each member, rather than a strictly formalistic approach. In the immediate period election commissions at all levels should inform party proxies of all commission sessions in time for them to attend. Party representatives should be allowed to observe all training sessions for election commission members and all aspects of the election process in order to instill greater confidence. The CEC should consider establishing party and candidate liaison committees at the national and TEC levels to ensure timely and effective communication with them and to provide a forum for the parties and candidates to raise concerns and grievances.

The CEC also should consider undertaking a review of substitutions of PEC and TEC members in the days immediately before the October 2002 local elections to determine if investigation of suspicious patterns is warranted. The results of the review should be made public. In addition, the CEC should consider establishing a rapid inquiry team to examine resignations in the period immediately before the 2003 elections and be prepared to take effective action if evidence emerges of selling or trading commission memberships.

Providing Comprehensive Transparency of Vote Tabulations: The CEC should, as a matter of administrative action, order that the spreadsheets (protocols or tallysheets) used to tabulate precinct-by-precinct results into TEC and CEC results be given to party and candidate proxies and be posted publicly. This confidence building action will combine with providing copies of PEC protocols and the availability of aggregated results to enhance transparency. In addition, the political parties and nonpartisan election observer organizations should establish capacities to conduct parallel vote tabulations (either on a comprehensive basis or based on random statistical samples) in order to maximize confidence in official results.

Improving Voter Lists: Efforts to create accurate voter lists should be given a priority by the CEC and relevant governmental authorities. The project presently underway to computerize and update municipal population registries deserves added support from Armenian authorities and the international community in order to maximize the ability to produce accurate lists for the presidential and parliamentary elections. In addition, a systematic independent verification of voter lists, at least in Yerevan, could be an important confidence building measure. It could be done by a nonpartisan civic organization, an auditing firm or by an appropriate international organization. A broad civic education campaign is needed to inform citizens about how and why to verify the voter lists and how to make claims and objections to correct the lists. In addition, a uniform procedure is required for the courts to follow in processing petitions for election day voting certificates. Both additional judicial education and a public education campaign should be conducted about how to properly obtain such certificates.

Eliminating Vote Buying and Electoral Intimidation: Political parties and candidates must act on their responsibilities and legal obligations to stop vote buying and election related intimidation of all types. Training of electoral officials and party and candidate agents concerning ways to eliminate these illicit actions is warranted. Law enforcement officials, including police, prosecutors and judges also should be provided training about effectively handling these electoral violations.

Establishing a Political Party Code of Conduct and Inter-Party Dialogue: Political parties should pursue vigorously and in good faith initiatives to voluntarily enter into a code of conduct to respect the rights of voters and each other. The code should include an effective mechanism for inter-party dialogue concerning violations of the code and other matters concerning the promotion of electoral integrity. Parties should consider involving mutually respected witnesses to help establish accountability for observing the code but should accept that there are no substitutes for the parties themselves in promoting electoral integrity. The code should be incorporated into party and candidate proxy training, and internal disciplinary mechanisms should be put in place to enforce compliance with the code and the law.

Ensuring Political Neutrality of State Authorities: Strong public statements about state authorities observing strict political neutrality, coupled with procedures for penalizing violators, should be issued by the President, Prime Minister and all Ministers. Should violations occur, perpetrators should be prosecuted.

Ensuring a Free and Informed Military Vote: For military voting to be free, soldiers must be provided with sufficient, accurate information to allow them to make an informed choice. Orders must be issued and be publicized by the military command prohibiting attempts by superior officers to influence voting by enlisted personnel. Should such orders be violated, the perpetrators should be subject to court martial. In addition, civic education concerning ballot secrecy should be conducted for military personnel.

Ensuring Media Fairness: State-controlled television and radio should adopt broadcast policies that guarantee impartiality toward political parties and candidates. Procedures for ensuring editorial fairness, accuracy and impartiality in news coverage and fair access for electoral contestants should be adopted and enforced. In addition, to ensure plurality of the media in the electoral period, tenders for broadcast licenses should be expedited, and no discrimination should take place against applicants that have provided coverage of the opposition.

Establishing Accountability and Ending Impunity for Electoral Violations: Perpetrators of electoral fraud, intimidation, bribery (including vote buying) or other electoral crimes must be held legally accountable. Prosecution for electoral offenses committed before, during or after election day should be vigorously pursued. Establishing special electoral prosecutors should be considered, and specialized training for protecting electoral rights should be provided to police, prosecutors and judges. In addition, civic education for the general public is needed so that citizens can know their political rights and steps they can take to protect them. The public perception that electoral crimes can be committed with impunity must be broken through these types of activities in order to empower the electorate and establish confidence that the rule of law applies in the electoral context.

V. CONCLUSION

The delegation would like to express its appreciation to everyone with whom it met. Without their taking time and sharing their knowledge and insights, the delegation would not have been able to accomplish its work.

Armenia stands at a critical juncture in its history. The period ahead will determine whether the country will move forward democratically or stagnate. The 2002-2003 election processes will indicate which direction the country is headed. If the population accepts the upcoming elections as fair and credible, based on free voting and open competition, it will be clear that democratic progress is authentic. Armenia is beyond the point where its population can be asked simply to accept incremental improvements in the electoral sphere. It is undeniable that the country has the capacity to hold genuine elections. Should it fail to achieve its obligations to respect this fundamental right, those who seek to govern will again do so without a clear popular mandate and its attendant legitimacy. Armenia thus will seriously jeopardize its potential for integration into the community of democracies. The delegation hopes that those presently holding governmental power, as well as those who seek it, will meet their responsibility to the people of Armenia and take decisive steps in the period immediately ahead to ensure that the people's desire for and right to democracy is realized.

NDI will remain involved in Armenia and continue to offer its assistance to those working to advance a democratic process. The Institute joins with others in the international community to monitor and to assist the development of a democratic political process for the 2003 elections.