

**Report of Independent American Center of Political Monitoring
On Presidential Elections in Georgia, January 5, 2008**

The right to free and fair elections is, in part, rooted in the right to self-determination found in the United Nations Charter (Art. 1, paragraph 2) and Common Article 1 to the International Covenant on Civil and Political Rights (ICCPR). The Universal Declaration of Human Rights, applicable to all Member States of the United Nations, Article 21 states: "Everyone has the right to take part in the government of his [or her] country, directly or through freely chosen representatives.... The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent voting procedures."

Our mission of observers started work on the Georgian project on December 26, 2007 when the first 20 observers arrived in Tbilisi and a reinforcement of 6 would join them on the elections day. Our organization's observers are professionals in the fields of law, politics, journalism and human rights issues. Although our organization is relatively young, our observers have vast experience in monitoring different levels of electoral process. It is this diversity in backgrounds, political views and professions that allows for a complete view and objectivity. The infamous events of November 7th which brought about the extraordinary Presidential elections of January 5, 2008 shook the international society and directed our attention to Georgia.

We understand that evaluating the authenticity of the elections involves several factors such as whether the election administration is acting impartially and effectively, whether political contestants have the opportunity to freely campaign for their supporters, whether government resources are properly used in the electoral process, whether military is neutral, whether the judiciary is independent and whether the news media are free to provide access to political contestants and objectively those contestants and events important to the nation. In other words, elections must be examined in the context of a country's broader transition toward democracy and not taken out of context and scrutinized solely onto themselves. At the same time, political candidates must feel that they have a fair chance of reaching the voters in order to have the incentive to participate in the process and to respect the result of the elections.

This is also necessary for the public to have the trust in the government that results from the elections. Therefore, elections are intertwined with what happens before and what happens after the actual election day. That is why our first group of observers arrived as early as December 26th, 2007. While some were stationed in Tbilisi, others were deployed to the regions into the towns of Zugdidi, Marnauli, Akhaltzikhe and Rustavi. On January 5th a group of our observers visited 112 voting precincts and observed the final vote count in Tbilisi, Zugdidi, Marnauli and Akhaltsikhe. Our activities included visiting presidential candidates headquarters, speaking with the native population about their feelings, hopes and concerns for the elections. We visited numerous voting precincts prior to and on the day of the elections and spoke with heads of the elections committees.

We were informed from the reports submitted to us by our observers that the pre-election process went without serious complications and any violent confrontation between the opposing parties have been avoided. However, the reports point to the fact that there is a lot of evidence of corruption and violation of the electoral law which influenced the results of the elections considerably. To see whether Presidential elections of January 5th, 2008 were free, fair, transparent and in accordance with the international standards it is necessary to look at some of the international principles that comprise free and fair elections.

Free and Fair Elections Require an Atmosphere free of Intimidation

It is our belief that elections must be viewed in a social, historical and political context. In order for elections to be a fair reflection of the will of the people, the people must know that they are free to exercise their rights, are informed of their rights and trust that the elections will accurately reflect their collective will. Voters, campaigners and political competitors must be free from intimidation and violence. This cannot be said of the atmosphere especially in the regions.

Many voters complained to us that the cameras inside the voting precincts were placed were intimidating to them and they were afraid to cast their votes. Some of the cameras in Tbilisi were pointed at the voting booths. When asked the head of the

elections committee, we were told this is to keep the peace and order inside the precinct. In Zugdidi many opposition supporters have been intimidated by police. In addition, Election Committee members and their families were threatened with violence if they don't change their political opinion. However, according to the victims, there was no police reports filed as they are afraid of the repercussions. Business owners in Zugdidi were threatened with physical violence if they did not put up the posters with Mr. Saakashvili's political advertisements inside their windows. Finally, in Tbilisi there was presence of state Police at most of the voting precincts (inside and outside) which added to the feeling of intimidation (this is also a violation of the Georgian elections law on authorized personnel inside the voting precincts).

Free and Fair Elections Require an Atmosphere of non discrimination

Every major international human rights instrument provides a standard for free and fair elections. The people must have the right to exercise their rights and freedoms without being discriminated against on the basis of race, color, sex, language, religion national or social origin, birth or other status, property, *or political or other opinion*. This affects all stages of the electoral process – voter eligibility and registration, the allocation of funds, including media exposure and candidate qualifications. Instances of violent threats towards election committee members and their families who support the opposition is clear evidence of discrimination by the government of persons' political opinion. It reduces their right to vote to a meaningless right that can only be exercised if voting of a certain candidate. In addition, it is not clear what had happened to the rights to vote of all of the citizens of Georgia currently situated in autonomous regions of South Ossetia and Abkhazia.

Administering the elections – Role of Elections Committee is crucial in insuring legitimacy of the elections

The committees charged with administering the election must be independent and competent to effectively administer the electoral process. The public's perception

of true independence of electoral authorities is vital in ensuring the legitimacy of the electoral process and the perception of legitimacy of the government that follows the elections. It was apparent from our observations in Tbilisi (Precinct #3, 4, 62, 63) and the regions that some of the members of the elections committees had poor training and we not sure of their exact duties or how to resolve a situation as their training was insufficient. They did not interfere with such violations as family voting and violation of the secrecy of the vote.

It appeared that the voter registration lists contained many inaccuracies. For instance, one consistent trend was that the number of received ballots in precincts in Tbilisi and towns mentioned above sometimes greatly exceeded the number of registered voters (in some instances as in Precinct #62, Tbilisi the difference was 300 ballots). In Tbilisi some people could not find themselves in the lists, others could find their names, but no addresses, etc. Other voters received information in the mail to call a certain phone number in case they were not going to vote on January 5th, which is in direct violation of the law. In addition voting precinct #138 (School #2) located in Zugdidi was allocated to provide ability to vote for the refugees without local addresses. 1500 of such refugees were registered at this precinct. However, the voter list only contained 400 persons without a local address, and the remaining 1100 refugees and assigned residences in the city. The concern of our observers was the possibility for these people to cast their vote twice – once at precinct #138 and then at the place by their home.

Use of Government Resources for Electoral Advantage is unacceptable

Use of so-called administrative resource in elections campaign in Georgia is one of our major concerns. Government resources belong to the citizens of a country, and thus should not be used for the electoral advantage of a particular political contestant. Unfortunately in Georgia (in cities and regions mentioned above) the use of administrative resource was observed to be a tool used in Mr. Saakashvili's campaign and grossly in contrast with the international norms. Such taboo things as use of government employees as campaigners, while working on government time; use of a

contestant's government position to capture media attention for campaign purposes; use of government moneys, telephones, photocopiers, vehicles or other equipment for campaign purposes; use of government programs, such as public works, job creation or social benefit projects, to gain electoral advantage.

Most of these taboos had been broken during the Georgian elections. First, in Tbilisi our monitors observed a presidential escort of cars with Georgian flag escorting candidate #5 through the city. Second, candidate Saakashvili was portrayed as an acting president who still uses his office and governmental buildings for his work and used state transportation to get around the city. Third, as a longstanding tradition, the President addresses the country on New Years eve to congratulate the people. Mr. Saakashvili, who at the time was just a presidential candidate was given this privilege before the acting president addressed the nation. Besides confusing the voters, this presents Candidate #5 as an acting president. Fourth, in Zugdidi on the day prior to the elections (January 4th, 2008), when according to the elections law of Georgia all political advertising must cease, there was a large pop-music concert available free to the population, followed by a pro-Saakashvili rally. Moreover, the event was portrayed as if all the attendees of the concert were supporters of candidate #5. Fifth, in Zugdidi government owned buses took people from villages and remote areas to their voting precincts and all buses had Mr. Saakashvili's political advertising on the sides and in their windows. This is not only a blatant violation of the elections law about the day of silence prior to the election, but has psychological effect on the voters being transported. Sixth, Zugdidi's town square was full of tractors (government owned machinery equipment) that were covered by Mr. Saakashvili's election advertisements and all had a poster of Mr. Saaksashvili inside their front windows. Seventh, voter subornation by means of transfer of material goods (clothing, hats and scarves, food and vouchers) was observed by our organization in Tbilisi and Zugdidi. Finally, one of the buildings adorned with a large billboard with Mr.Saakashvili's political advertisement in Zugdidi was the building of a Police Station.

Equal and free of discrimination Media Access and Coverage is an important tool for free and fair elections

Democracy depends on all positions being fairly and impartially communicated so that the people are able to make informed choices. The ability of the political contestants, especially those not in power, to benefit from the mass communications media is critical in this regard.

While studying media reports, members of our delegation observed the inequality of access to media outlets for all presidential candidates while the state TV channels seemed to favor Candidate #5. Prime time show of this candidate was aired several times, he was given the privilege to speak to the Georgian people during the New Years holiday while other candidates did not have such an opportunity. Electorate has the right to gather accurate information in order to cast an informed vote favoring one or another contestant. This right to information is undermined when the voters are not presented the accurate information about all the candidates.

The Election Day, January 5, 2008

We were very glad to see that the elections day went relatively smoothly and without any violent confrontations. However, there were several instances of violations that were reported by our observers. For example, Mr. Saakashvili's political advertisement such as billboards and posters was adorning major streets of Tbilisi. Some of these billboards were located across the street or next to a voting precinct. In addition, in Precinct #18 in Tbilisi there was an active political campaign for Mr. Saakashvili going on inside the voting precinct. Zugdidi was not an exception – Mr. Saakashvili's advertising was seen throughout the town on the election day.

Free, Fair and Transparent?

Transparency in electoral context is supposed to build public confidence by showing that if one is acting properly, there is nothing to hide. It applies to but is not limited by a number of activities described here such as drafting elections laws and regulations, training electoral administrators, qualification of parties and candidates, training election officials, ballot and voting materials, establishing polling sites, voting procedures, counting procedures, complaint mechanisms and the announcement of results. Many of these factors have been compromised by the blatant violations reported by our

delegation which does not allow us to refer to the Georgian Presidential Elections of January 5, 2008 as transparent.

While we realize that Georgia is a new Democracy and there is margin for error due to lack of experience, sufficient planning and thought invested in the process, the gross violations we had witnessed point to something more. Consequently, due to the violations that go against the core principles of democracy, human rights and international election code, we cannot state that the Presidential elections of January 5, 2008 were free, fair and in line with international standards.