

THE BROOKINGS INSTITUTION PROJECT ON INTERNAL DISPLACEMENT

Internally Displaced Persons and Political Participation:
The OSCE Region

An Occasional Paper by Simon Bagshaw

SEPTEMBER 2000

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ACKNOWLEDGMENTS

The Brookings Institution Project on Internal Displacement expresses its appreciation to Simon Bagshaw for preparing this paper for distribution at the OSCE Supplementary Human Dimension Meeting on Migration and Internal Displacement held in Vienna, September 25, 2000.

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The author would like to express his thanks to the following for their comments on and contributions to this paper: Roberta Cohen, Brookings Institution Project on Internal Displacement; Marcus Cox, European Stability Initiative; Emanuele Giaufret, Office for Democratic Institutions and Human Rights, OSCE; Andrew MacGregor, OSCE Mission to Bosnia and Herzegovina; Erin Mooney, Office of the Representative of the Secretary-General on Internally Displaced Persons, Office of the High Commissioner for Human Rights; and Vladimir Shkolnikov, Office for Democratic Institutions and Human Rights, OSCE. The views expressed, however, are those of the author and should not be ascribed to the people or organizations whose assistance is acknowledged, or to the Brookings Institution.

INTRODUCTION

Internal displacement has come to the fore in recent years as one of the most pressing human rights issues facing the international community. An estimated 20-25 million persons worldwide are internally displaced as a result of armed conflict and systematic violations of human rights. While the phenomenon has rightly been the subject of an ever increasing volume of literature, the focus tends to be on the immediate needs and rights of the internally displaced to physical protection and life-sustaining assistance. Less attention has been paid to other, perhaps less obvious needs and rights to which the internally displaced are entitled and which, depending on the circumstances, may be equally as important to the physical and mental well-being of the displaced. Among these is the right to vote and participate in governmental and public affairs—a right which citizens should not lose upon becoming internally displaced.¹ Yet, as the Representative of the Secretary-General on Internally Displaced Persons, Dr. Francis M. Deng, has observed, “[a]midst the many deprivations they face, internally displaced persons are often stripped of the opportunity to participate in government on a local and national basis.”² Denial of this right has particular significance for the internally displaced as “the ability to participate in public and governmental affairs can enable internally displaced persons to influence and possibly ameliorate their own situation of displacement.”³ Political participation by the internally displaced may be important also to ensure the legitimacy of both the elections and the government formed as a result, as well as the long-term stability of the country concerned.

The purpose of this paper is to examine political participation by internally displaced persons with specific reference to their right to vote in certain participating states of the Organisation for Security and Cooperation in Europe (OSCE). The geographical limitation reflects both the dearth of information on the issue in general and, conversely, the increasing role of OSCE and its Office for Democratic Institutions and Human Rights (ODIHR) in election monitoring and reporting. This limitation notwithstanding, the paper highlights a number of issues which may be instructive in regard to other displacement-affected states, either in the OSCE region or globally. With reference to elections held since 1995 in Bosnia and Herzegovina, Croatia, Georgia and the Russian Federation, the paper identifies various obstacles experienced by the internally displaced *vis-à-vis* the full and free exercise of their right to political participation. While some of these may appear to stem from practical or logistical problems such as physical access to voting procedures and delays in issuing necessary documentation, absent efforts to address them they may also give cause to suspect bad faith on the part of the authorities. Other obstacles may reflect deliberate policy choices by local or national authorities, which may even be enshrined in national legislation. Impediments such as these underline the importance of implementing international standards on political participation in regard to the internally displaced. Before examining specific country situations, however, it would seem pertinent first to consider the relevant international standards.

¹ Given that not all internally displaced persons may be entitled to the right to political participation, for example persons who are not citizens of a given country but who are habitually resident therein, the term internally displaced persons as used in this paper refers to those persons who were entitled to the right to vote prior to becoming displaced.

² *Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission on Human Rights resolution 1995/57. Compilation and analysis of legal norms.* UN doc. E/CN.4/1996/52/Add.2 (1996), para. 350.

³ *Ibid.*

POLITICAL PARTICIPATION IN INTERNATIONAL HUMAN RIGHTS LAW

It has been observed that “[i]n the post-war construction of human rights law, the concept of political participation has been an indispensable building block.”⁴ Following its inclusion in the 1948 Universal Declaration of Human Rights,⁵ the right to political participation or, in its more immediate and meaningful sense for most people, the right to vote,⁶ has been reflected in a broad range of human rights instruments at the universal and regional levels.⁷ In particular, the International Covenant on Civil and Political Rights (ICCPR) provides that every citizen shall have the right and opportunity to participate in the conduct of public affairs and to vote and be elected in genuine periodic elections.⁸ Furthermore, it requires that this right be guaranteed without unreasonable restrictions and without any of the distinctions enumerated in Article 2 of the Covenant, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The Human Rights Committee has deemed that States parties also must “take effective measures to ensure that all persons entitled to vote are able to exercise that right”. Thus if residence requirements apply to registration, they must be reasonable, and should not be imposed in such a way as to exclude the homeless from the right to vote.⁹ Although in its discussions on this draft general comment the Committee did not consider the term ‘homeless’ as applying to internally displaced persons but rather to persons of no fixed abode, including travellers, the Committee did not explicitly reject the possibility of its relevance to this group.¹⁰

Denial of the right to political participation on grounds of racial or ethnic origin, sex and in regard to indigenous peoples is prohibited also under other international human rights instruments.

⁴ H. Steiner, “Political Participation as a Human Right”, 1 *Harvard Human Rights Yearbook* (1988) 77. Steiner continues that the right to political participation figures prominently in the full range of international instruments and that “[c]ountries with markedly different political systems have termed political participation the vital human right. In its absence, it is said that all others fall to perilous existence.”

⁵ Art. 21 provides that “1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives . . . 3. The will of the people shall be the basis of the authority of government and shall be expressed in periodic and genuine elections which shall be by universal suffrage and shall be held by secret vote or by equivalent free voting procedures.”

⁶ As Steiner observes, there exist “two different ways in which international norms express citizens’ right to political participation: the relatively vague and abstract right to take part in the conduct of public affairs or government, and the relatively specific right to vote in elections.” Steiner, note 4 above, at 78.

⁷ In addition to the provisions mentioned, the Declaration on the Rights of Persons Belonging to Minorities, states that persons belonging to national or ethnic, religious and linguistic minorities have the right to participate effectively in public life as well as in decisions “on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner that is not incompatible with national legislation.” See also, GA res.150 (1991) in which the General Assembly declared that “the right of everyone to take part in the government of his or her country is a crucial factor in the effective enjoyment by all of a wide range of other human rights and fundamental freedoms.” See also, *Popular participation in its various forms as an important factor in development and in the full realisation of human rights, Study by the Secretary-General*. UN doc. E/CN.4/1985/10 (1985). The 1985 World Conference to Review and Appraise the Achievements of the United Nations Decade for Women recognised the need for Governments to “ensure equality of [political] participation by women . . . [and] effectively secure the participation of women in the decision-making processes at a national, State and local level.” *Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, adopted at Nairobi, 15-26 July 1985, Part A: The Nairobi Forward-Looking Strategies for the Advancement of Women*. UN doc. A/CONF.116/28/Rev.1 (1986), paras. 86-92.

⁸ Art. 25, ICCPR.

⁹ Human Rights Committee, “General Comment 25: The right to participate in public affairs, voting rights and the right of equal access to public service (Article 25).” Reproduced in *Report of the Human Rights Committee Volume I*. UN doc. A/51/40 (1996).

¹⁰ See *Compte rendu analytique de la 1423ème séance*, UN doc. CCPR/C/SR.1423 (1995).

States parties to the Convention on the Elimination of All Forms of Racial Discrimination guarantee the right of everyone to equal enjoyment of the right to political participation without distinction as to race, colour, or national or ethnic origin.¹¹ The Convention on the Elimination of All Forms of Discrimination Against Women provides that States parties undertake to ensure to women, on equal terms with men, the right to political participation.¹² With regard to indigenous and tribal peoples, the International Labour Organization's Convention No.169 stipulates that States parties must facilitate political participation by indigenous peoples to the same extent as other sectors of the population.¹³ Of particular relevance to the present analysis, the Committee on the Elimination of Racial Discrimination has stated that refugees and persons displaced by ethnic conflicts (which presumably includes the internally displaced) have the right to freely return to their homes of origin and, after their return, the right to participate fully and equally in public affairs at all levels.¹⁴ The Committee did not, however, specifically address the right of internally displaced persons to participate fully and equally in public affairs not only upon return but also *during* their displacement.

At the regional level, the right to political participation is provided in one form or another in the three major regional human rights instruments. The First Protocol to the European Convention on Human Rights requires that States parties hold free elections at reasonable intervals by secret ballot and under conditions "which will ensure the free expression of the opinion of the people in the choice of the legislature."¹⁵ The African Charter on Human and Peoples' Rights guarantees to every citizen the right to participate freely in the Government of his country.¹⁶ And under the American Convention on Human Rights, every citizen has the right and opportunity to participate in public affairs and to vote and be elected in genuine periodic elections. These rights may only be regulated on the basis of age, nationality, residence, language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings.¹⁷ The American Convention is the only

¹¹ Art. 5 provides that "States parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights . . . (c) Political rights, in particular the right to participate in elections—to vote and stand for election—on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service."

¹² Art. 7 reads: "States parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (a) to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies." In addition, States parties to the Convention on the Political Rights of Women recognise the principle of equality between men and women, without any discrimination, regarding the enjoyment and exercise of certain rights pertaining to the right to political participation, including the ability to vote in elections, to be eligible for election to publicly elected bodies, and to hold public office and exercise public functions. See Arts. I-III.

¹³ Art. 6 reads in part that governments shall "(b) establish means by which [indigenous and tribal peoples] can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them."

¹⁴ General Recommendation XXII. Reproduced in *Report of the Committee on the Elimination of Racial Discrimination*. UN doc. A/51/18 (1996).

¹⁵ Art. 3.

¹⁶ Art. 13(1) provides that "[e]very citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law."

¹⁷ Art. 23(1) states "Every citizen shall enjoy the following rights and opportunities: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) to vote and be elected in genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters." See also, Art. XX of the American Declaration of Human Rights which grants everyone having legal capacity the right to participate in the government of his or her country and to take part in popular elections.

instrument under which the right to political participation is non-derogable in situations of armed conflict, whether non-international or international.¹⁸

Consideration should be given also to certain OSCE Commitments in the Human Dimension, in particular those contained in the 1990 Copenhagen Document which contains a number of provisions pertaining to political participation. The Copenhagen Document provides that the participating states “declare that the will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of the authority and legitimacy of all government.” The participating states will accordingly “respect the rights of their citizens to take part in the governing of their country, either directly or through representatives freely chosen by them through fair electoral processes.”¹⁹ To ensure that the will of the people serves as the basis of the authority of government, the participating states will “guarantee universal and equal suffrage to adult citizens.”²⁰

POLITICAL PARTICIPATION AND THE GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT

While the right to political participation is reflected in a broad range of international and regional instruments, none of the provisions cited specifically address the position of the internally displaced. In recognition of this and of the fact that the internally displaced are entitled to the full range of rights afforded by international human rights law despite their being displaced, the right to political participation is set forth in the Guiding Principles on Internal Displacement, as presented by the Representative of the Secretary-General on Internally Displaced Persons to the Commission on Human Rights in 1998.²¹

The Guiding Principles were developed at the request of the Commission and the General Assembly through a broad based and representative process. Drafted by a team of legal experts working under the direction of the Representative, the Guiding Principles constitute the first international standards focusing exclusively on the internally displaced. Although not formally legally binding, the Principles reflect and are consistent with international human rights and humanitarian law and refugee law by analogy. They set forth the rights and guarantees relevant to the protection of internally displaced persons in all phases of displacement: protection against arbitrary displacement; protection and assistance during displacement; and during return, resettlement and reintegration.

The Principles are based on a two-part *Compilation and Analysis of Legal Norms*²² which found that while existing law covers many aspects of relevance to the situation of internally displaced persons, there nonetheless exist significant gaps and grey areas where the law fails to provide sufficient protection. With regard to political participation, the compilation found that while the right to political participation is recognised in several international human rights instruments as a right enjoyed by citizens, a future international instrument should stress that internally displaced persons do not lose their right to political participation because they had to

¹⁸ Pursuant to Art. 27(2).

¹⁹ Para. 6, Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (29 June 1990). Available at www.osce.org

²⁰ Para. 7(3), *ibid.*

²¹ *Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission on Human Rights resolution 1997/39. Addendum. Guiding Principles on Internal Displacement.* UN doc. E/CN.4/1998/53/Add.2 (1998).

²² See E/CN.4/1996/52/Add.2 (1996) and *Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission on Human Rights resolution 1997/39. Addendum. Compilation and Analysis of Legal Norms, Part II: Legal Aspects Relating to the Protection against Arbitrary Displacement.* UN doc. E/CN.4/1998/53/Add.1 (1998).

leave their homes, and that the means for their participation, including access to voter registration procedures, must be safeguarded.²³

The compilation found also that the exclusion of internally displaced persons from various rights, such as the right to political participation, because of their displacement would be incompatible with the non-discrimination clauses of human rights law. According to the compilation, while an explicit prohibition of discrimination against internally displaced persons because of their being displaced does not exist in human rights law, “many international and regional human rights treaties have clauses requiring States parties to respect and ensure the rights and freedoms recognised by those conventions without discrimination.”²⁴ Specific grounds upon which discrimination is prohibited in many treaties include race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or “other status.”²⁵ According to the compilation, the term “other status” was intended to be interpreted broadly—it has been interpreted to include nationality and disability, and reasonably includes youth and old-age as well.²⁶ On this basis, it may be concluded that non-discrimination clauses appear to ban discrimination against internally displaced persons based on their status as such.²⁷ In addition, such clauses would prohibit discriminatory conduct based on grounds commonly related to situations of displacement, such as race, religion, national or social origin, and lack of property.²⁸

In view of the compilation’s findings, the Guiding Principles provide in Principle 22(1)(d) that “[i]nternally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of ... [t]he right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right.” This provision should be read in conjunction with Principle 1(1), according to which internally displaced persons “shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.”

PARTICIPATION BY THE INTERNALLY DISPLACED IN ELECTIONS IN THE OSCE REGION

Despite the existence of increasingly clear international standards on political participation, a brief and by no means exhaustive survey of a number of displacement-affected OSCE participating states reveals that internally displaced persons may be unable to exercise their right to political participation on the same terms as their non-displaced compatriots. The reasons for this vary but include discrimination in the application of the right to political participation on ethnic grounds, complications arising from archaic systems of residence permits, fear that the displaced will not return to their original places of residence, and failure to implement voting arrangements for the internally displaced.

²³ E/CN.4/1996/52/Add.2, paras. 351 and 358.

²⁴ *Ibid.*, para. 49.

²⁵ See, for example, Art. 26 ICCPR, according to which “[a]ll persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” See also the non-discrimination clauses in regional instruments: Art. 14, European Convention; Art. II, American Declaration; Arts. 1 and 24, American Convention; Art. 3, Additional Protocol to the American Convention; and Arts. 2, 3 and 18(3), African Charter.

²⁶ E/CN.4/1996/52/Add.2, para. 52. See, for example, M. Bossuyt, *Guide to the "Travaux Préparatoires" of the International Covenant on Civil and Political Rights* (1987) 486.

²⁷ E/CN.4/1996/52/Add.2, para. 56

²⁸ *Ibid.*

Since the signing of the General Framework Agreement for Peace in Bosnia and Herzegovina (GFA)²⁹ in December 1995, Bosnia has been the scene of numerous elections in relatively short succession. Despite a relatively promising start in Mostar in June 1996, the elections have to a large extent been marred by serious abuse of voter registration procedures, as well as problems of freedom of movement which have had a negative impact not so much on the right of the internally displaced to vote as on their right to vote in the specific location to which they are entitled to vote under the electoral legislation.

Before Bosnia as a whole went to the polls in September 1996, local elections were held in June 1996 in the city of Mostar, which at the time was under the administration of the European Union (EU). According to the EU-drafted electoral law, persons who had their registered domicile in the municipality of Mostar at the time of the 1991 census and who, at the time of the elections, still had their registered domicile in the city, and who were 18 years of age on the date of the elections were entitled to vote. As domicile was used to mean permanent residence, refugees and internally displaced persons from Mostar but residing elsewhere could travel to the city to cast their ballots. In addition, polling stations were provided in Germany, Switzerland, Norway and Sweden to enable refugees from Mostar residing in those countries to cast their votes by means of absentee ballots. By contrast, internally displaced persons were not allowed to vote by absentee ballot. Given the lengths that the international community was prepared to go to ensure that refugees outside of Bosnia were able to vote, it was unfortunate that persons internally displaced within Bosnia who were unable to travel to Mostar on the day of the election were unable to exercise their right to vote.

That said, reports indicate that 18,000 internally displaced persons returned to the city in order to vote,³⁰ and according to one report, because the rules did not permit absentee balloting, they effectively facilitated or forced freedom of movement which was considered to be “the election’s greatest achievement.”³¹ Because Muslims expelled from west Mostar had to vote in person, instead of by absentee ballot, they had to “confront the enemy.”³² Indeed, the elections “served as an impetus for many Mostar residents to cross the river and intermix, meet their former neighbours and dismiss some of their more abstract fears.”³³

In contrast to the situation in Mostar, the electoral rules contained in Annex III of the GFA and applied during the national elections in September 1996, allowed absentee voting.³⁴ The GFA stipulates that “[a] citizen who no longer lives in the municipality in which he or she resided in 1991 shall, as a general rule, be expected to vote, in person or by absentee ballot, in that municipality.” It continues, “[s]uch a citizen may, however, apply . . . to cast his or her ballot elsewhere.” According to the International Crisis Group (ICG), the international community expected most displaced Bosnians to vote in the municipalities in which they were living in 1991 in order to start the process of reintegration. Voting elsewhere was to be the exception rather than the rule.³⁵ Pursuant to the electoral rules and regulations drawn up by the Provisional Election Commission (PEC), displaced persons wishing to vote in the municipality in which they were

²⁹ Reprinted in 35 *Int’l Legal Materials* (1996) 75.

³⁰ International Crisis Group (hereinafter, ICG), *Mostar Elections Technical Analysis* (13 July 1996).

³¹ ICG, *Mostar Elections Political Analysis* (13 July 1996).

³² *Ibid.*

³³ ICG, note 30 above.

³⁴ As ICG noted, this may have been prudent for security reasons—prior to the September 1996 national elections, the wounds from Serb-Muslim fighting were fresher, and the NATO peacekeeping force was not in a position to secure the whole of Bosnia to the extent to which it had secured Mostar. ICG, note 31 above.

³⁵ ICG, *Elections in Bosnia and Herzegovina* (22 September 1996).

currently living or in a different municipality in which they intended to live and not where they lived in 1991 had to complete form “P-2,” apply to the PEC and then vote in person on the day.

Bosniacs and Croats, displaced from Republika Srpska and living in the Federation generally registered to vote by absentee ballot for the municipalities in which they were living in 1991 (approximately 187,000 persons). Many others expressed their intention to travel on election day to their former homes to vote in person. Only some 59,000 requested to vote in their current location. The voting patterns for Serbs displaced from their homes in the Federation and now residing in Republika Srpska were almost the complete opposite. Around 78,000 requested to vote by absentee ballot and over 241,000 chose to vote in their current place of residence.³⁶ As ICG observed, had these displaced Serbs chosen of their own free will to switch their votes from their previous homes in the Federation to their new place of residence in Republika Srpska, this might have been acceptable. However, the Bosnian Serb authorities “systematically pressured them into registering to vote in Republika Srpska and not in the municipalities in which they were living in 1991.”³⁷ In the former front-line town of Doboj, for example, the Commission for Refugees and Displaced Persons which was controlled by the Serb Democratic Party (SDS), decreed that displaced persons would only receive housing, humanitarian aid, and other benefits on presentation of a special certificate which they could acquire by showing the form P-2, that is, by applying to vote in their current place of residence. These tactics were subsequently extended to many other regions of Republika Srpska. As a result, the exception became the rule and the ability of the internally displaced to freely exercise their right to vote was seriously undermined, not to mention their rights to freedom of movement and choice of residence. As Soren Jessen-Petersen, the United Nations High Commissioner for Refugees’ special envoy to former Yugoslavia warned: “Results of the registration for the September elections herald a dismal future for multi-ethnicity in Bosnia and Herzegovina . . . [T]he tactics used in the campaign will produce hard-line winners and xenophobic nationalists committed to the maintenance of hostile homogenous statelets.”³⁸

Electoral engineering was not the only problem affecting the exercise of the right to vote by displaced voters during the national elections in 1996. Problems in voter registration “undoubtedly jeopardised the integrity of the list,” as a result of which thousands of people found themselves unable to vote because they could not find their names on voter lists.³⁹ On election day, when the extent of the problem became apparent, OSCE issued instructions to the Local Election Commissions (LECs) and Polling Station Committees to instruct voters whose names did not appear on voter lists to go to the LEC, verify their identity, obtain a voter certificate, and return to polling stations to cast their ballots. However, these instructions were issued late in the day, and after many voters had returned home and given up on voting. Moreover, the instructions were not received uniformly in all localities. While this problem affected displaced and non-displaced voters alike, it was particularly problematic for the displaced, and especially those who had crossed the Inter-Entity Boundary Line (IEBL) to cast their ballots and could not venture away from the secured polling stations to appeal to the LEC.⁴⁰

³⁶ Ibid.

³⁷ Ibid.

³⁸ He further noted that “[i]n some cases, the authorities threatened to withhold humanitarian aid to coerce voters to opt for Registration Form [P-2]. Many received registration forms which already indicated the location at which they were to vote. We know only of cases of people who had the courage to report them. The real scale of the problem, however, may be much greater . . . Unless all refugees and displaced people are allowed to vote freely on election day and unless the results of the elections are fully enforced, the winners once again will be those who waged the war and the losers will be their victims, i.e. refugees and displaced peoples.” Quoted in ICG, *ibid.*

³⁹ See *Preliminary Statement of the Coordinator for International Monitoring*.

⁴⁰ ICG, note 35 above.

Serious concerns also arose in regard to the ability of displaced persons to physically return to their former places of residence in order to vote. The OSCE's Coordinator for International Monitoring (CIM) concluded that on election day the climate had not been established for the internally displaced to cross the IEBL to cast ballots without fear of intimidation or personal safety.⁴¹ Contradictory and changing information regarding security arrangements for those crossing the IEBL may have deterred the displaced from travelling to vote in their area of origin. Unexplained delays of special buses intended to transport displaced persons to polling stations in their original areas also discouraged the displaced from voting. According to ICG, much of the blame for this lay with the authorities in the Bosniac part of the Federation who failed to properly organise the bus network. Since security arrangements meant that pedestrians, people on bicycles and in private cars were not permitted to cross the IEBL, buses had to be available to ensure that displaced persons could travel to vote. However, the Bosniac Party of Democratic Action (SDA) only decided to contest the elections in the week leading up to the election and failed to motivate prospective voters or to organise transport where necessary.⁴²

In addition, a number of well-publicised security incidents involving displaced persons who crossed the IEBL in the months prior to the elections as well as memories of bitter personal experiences deterred some displaced persons from voting.⁴³ ICG notes that many of the buses assembling in Sarajevo to take voters to Republika Srpska were empty. In one incident, a bus due to travel to the town of Rudo never left because only six persons turned up—who subsequently were unable to vote. And of 600 displaced Serbs who wished to travel from Republika Srpska to their former residence in the Federation, only 200 were able to make the journey in four buses which they chartered themselves. The authorities in Republika Srpska declined to arrange transport for the remaining 400 displaced persons.⁴⁴

In an effort to overcome the fraudulent practices used in the run-up to the 1996 elections, OSCE amended some of the rules pertaining to voter registration for the purposes of the 1997 municipal elections. The general rule concerning displaced persons remained unchanged. Thus, a citizen who no longer lived in the municipality where he or she resided in 1991 was, as a general rule, expected to vote in person or by absentee ballot in that municipality. The rule that displaced voters may vote in their current municipality if they can prove residence there since before 31 July 1996 was also left unchanged, though the type of documentation acceptable to prove residency was limited to a residency receipt or displaced person's card issued by the appropriate authority on or before 31 July 1996. Moreover, the option for voters displaced within the country to vote in person at an intended place of residence (by completing the P-2 form) was narrowly circumscribed—persons displaced within the country were not allowed to register in an intended place of residence and refugee voters could only do so if they could establish genuine ties with the place. This was intended to prevent widespread manipulation of the registration process, and thereby protect internally displaced persons from being coerced by local authorities into registering in a specific municipality against their will.

⁴¹ Quoted in ICG, *ibid.* According to ICG, had all displaced persons in the Federation who had not registered for absentee ballots attempted to travel to the municipalities in Republika Srpska in which they had been living in 1991 to vote, more than 150,000 would have crossed the IEBL, and a further 7,000 persons would have crossed from Republika Srpska to the Federation. On the day only 14,700 crossed - 13,500 from the Federation and 1,200 from Republika Srpska. "This was a long way below the pre-election forecasts, less than the 25,000 initially reported and only marginally more than crossed without incident from one side of Mostar to the other during that divided city's municipal elections in June." *Ibid.*

⁴² *Ibid.*

⁴³ *Ibid.* According to ICG, when the displaced returned to their places of origin in the other entity, "they were frequently subject to arbitrary police controls and detention, open discrimination, expulsions, and violence." Short assessment visits by groups of displaced persons across the IEBL routinely and frequently were prevented by mob violence or other threats, while individual initiatives were even more dangerous. The local authorities "usually tolerated these incidents, and in some cases actively participated in them." *Ibid.*

⁴⁴ *Ibid.*

The various changes went some way towards preventing fraud and manipulation,⁴⁵ though there were still abuses. In particular, ruling parties, especially the SDS and Croatian Democratic Union (HDZ), made humanitarian assistance conditional upon presentation of a receipt showing registration in the municipality and also provided fraudulent documents, such as falsified displaced persons' cards, to enable displaced persons to register in the municipality in question.⁴⁶ In addition, some local authorities were allegedly responsible for organising or encouraging violence and intimidation against pre-war residents seeking to return to their homes in order to discourage them from registering to vote in their pre-war municipalities.⁴⁷

The situation may have improved since then. Information on such practices in regard to elections held in September 1998 and April 2000 is scant which could be taken to indicate that such practices and problems are a thing of the past. Equally, it could be an indication that such problems and practices persist undetected. Either way, steps are being taken by the international community to both prevent electoral engineering and allow displaced persons to vote freely in the future. The rules and regulations issued by the PEC for the April 2000 elections allowed displaced persons to vote either where they were before the outbreak of the conflict or in the municipality in which they now live and in which they intend to continue to live, though only if they can provide documentary evidence of continuous residence in the current municipality six months prior to the elections.⁴⁸ The rules also provided in Article 2.10(f) that “[n]o person shall forfeit any rights or entitlements based on the municipality voting option exercised by the person. No person shall be required to present any document issued for the act of voting, except as is necessary for the purposes of voter registration, confirmation or registration, or voting.” Furthermore, they provided for an OSCE International Registration Officer with the authority to delay the registration of a person if the authenticity of the documents to establish voter eligibility was questionable.⁴⁹ OSCE also retained the right to require the production and inspection of any document, record or related material required for registration. Any municipality issuing false documentation or statements or refusing to provide requested information in a timely manner, was to be subject to appropriate penalties.⁵⁰ The Rules and Regulations also maintained the Election Appeals Sub-Commission (EASC) which was charged with adjudicating complaints regarding *inter alia* violations of the Rules and Regulations, including, presumably, violations of above-mentioned Article 2.10(f).⁵¹ The EASC was empowered to impose penalties against any individual, candidate, political party, coalition, list of independent candidates or body that violated the Rules and Regulations.

Some, though not all, of these provisions are reflected in the draft election law which on entry into force will replace the existing PEC Rules and Regulations. The draft law was prepared by Bosnian and international experts as well as representatives of the Office of the High Representative (OHR) and OSCE. Under the draft law, internally displaced persons maintain the right to vote in either their current or pre-war municipalities and shall not be required to present any document issued to them in regard to voter registration except for the purposes of voter registration, confirmation of registration or voting.⁵² Chapter 6 of the draft law concerns “protection of the electoral right” and provides that any person whose right established by the draft law was violated can file a complaint to the competent authority for the conduct of elections or the Elections

⁴⁵ There was a dramatic decrease in the number of voters who registered in a “future municipality”, from 138,000 in 1996 to less than 1000 in 1997. ICG, *Beyond Ballot Boxes: Municipal Elections in Bosnia and Herzegovina* (10 September 1997).

⁴⁶ Ibid. See also OSCE/ODIHR, *Bosnia and Herzegovina Municipal Elections 13-14 September 1997*.

⁴⁷ ICG, note 45 above.

⁴⁸ Art. 2.10, Provisional Election Commission Rules and Regulations, Elections 8 April 2000.

⁴⁹ Art. 2.45.

⁵⁰ Art. 2.55.

⁵¹ Arts. 4.5 and 4.10(b)

⁵² Art. 3.7, Draft Election Law (October 1999).

Complaints and Appeals Council no later than three days after the violation occurred. It is not clear to what extent this provision applies to instances in which displaced persons are coerced to register to vote in a particular municipality not of their choosing. However, pursuant to subsequent provisions, the Municipal Election Commission has competence over “violations of voter registration procedures by the municipal authorities” and may order corrective actions to be taken to remedy such violations.⁵³

The draft law was submitted to Bosnia’s Parliamentary Assembly in October 1999 but was rejected on the basis of the provisions relating to the election of the presidency and in regard to voting by the displaced. With regard to the latter, the SDA believes that citizens should not be allowed to vote in communities where they now live, whereas Serb and Croat parties often hold the opposite view, that citizens should not be allowed to vote where they lived before the war. According to OSCE, the only feasible solution and the only solution consistent with basic human rights standards, is to offer voters a choice.⁵⁴ The draft law was resubmitted in early 2000, minus the provisions relating to the election of the presidency but including those relating to voting by the displaced. It remains before the Parliament, with OHR and OSCE urging its adoption.⁵⁵

CROATIA

In Croatia, discriminatory practices against the displaced Croatian Serb minority in terms of access to documentation and voting procedures has been a notable feature of elections in 1997 and 2000 respectively. In November 1995, following the recapture of the Serb-held regions of Krajina and Western Slavonia, Croatian Serb leaders signed the Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium providing for the peaceful reintegration of the region into the Republic of Croatia under the authority of the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES). More detailed plans for the implementation of the Basic Agreement were contained in a Letter of Intent from the Croatian Government of 13 January 1997. Regarding political participation, the Letter stated that members of the local Serb ethnic community, as well as other Croatian citizens, were eligible to participate in local elections if they were resident at the time of the 1991 census.⁵⁶ Of particular relevance to the approximately 60,000 Croatian Serbs who had fled to Eastern Slavonia from the Krajina and Western Slavonia,⁵⁷ the Letter provided Croatian Serbs who settled in the region prior to the beginning of the UNTAES mandate (15 January 1996) with the option of voting either in their present voting district or in the voting districts where they resided in 1991.⁵⁸ As one report noted, “[b]y giving the right to vote to all such persons, the Croatian Government gives full effect to the Basic Agreement’s guarantee that displaced Croatian Serbs living in the region will enjoy the same rights as all other residents of the region.” It continued that the local elections scheduled for April 1997 “cannot be deemed free and fair unless all eligible voters who seek to exercise their right to vote are able to do so.”⁵⁹

In order to be included in the voter registers, Croatian Serbs were required to obtain the Croatian citizenship document as well as an identity card. According to the Letter, the Croatian authorities would issue the relevant documents in sufficient time to enable Croatian Serbs to participate in the elections. However, by mid-March 1997, irregularities in issuing documents

⁵³ Arts. 6.5(1) and 6.6.

⁵⁴ OSCE/OHR, “Press Statement on the Election Law” (21 January 2000).

⁵⁵ OSCE/OHR, “OHR and OSCE to Insist on Adoption of Election Law” (9 May 2000).

⁵⁶ *Letter dated 13 January 1997 from the Permanent Representative of Croatia to the United Nations addressed to the President of the Security Council*, UN doc.S/1997/27 (1997), para. 2.

⁵⁷ Figures, Human Rights Watch, *Croatia: Human Rights in Eastern Slavonia During and After the Transition of Authority*, Vol. 9, No. 6 (D) (April 1997).

⁵⁸ S/1997/27, para. 3.

⁵⁹ Human Rights Watch, note 57 above.

raised concerns that not all eligible voters seeking documents would receive them in time.⁶⁰ Indeed, on the day of the election there were considerable problems with displaced Serbs not being able to vote as they lacked the required documentation. According to OSCE, the election in the UNTAES region was characterised by significant technical problems “mainly resulting from the tight time schedule.”⁶¹ Croatian Serbs saw it differently, claiming that the authorities had been deliberately slow and obstructive in issuing the necessary documentation so as to prevent significant numbers of eligible Serbs from voting. This led to unrest at several polling stations as Serb voters, including displaced persons, were refused the right to vote. The situation was further compounded by the fact that voters lists for displaced persons were missing in 13 key locations.⁶²

Problems were also experienced by displaced Croatian Serbs during the parliamentary elections held in January 2000. The elections were conducted pursuant to a new election law of November 1999 which gives overall responsibility for the administration of the elections to the State Election Commission (SEC). To fulfil its responsibilities, the SEC is empowered to issue “Mandatory Instructions.” Pursuant to Mandatory Instruction X, the SEC established 299 polling stations for “expellees” from Vukovar-Srijem County and 10 polling stations for “expellees” from Osijek-Baranja. Two polling stations were established for “displaced persons.”⁶³ The distinction between the two groups of displaced persons is found in national legislation and reflects the date around which the displacement occurred but really reflects ethnic identity.⁶⁴ There are approximately 14,500 “expellees” who are overwhelmingly ethnic Croats, and some 1,400 “displaced persons” who are overwhelmingly ethnic Serbs. As there were only two polling stations for “displaced persons,” the voters in question sometimes had to travel long distances and endure long delays in order to vote. The distinction between the two is clearly discriminatory in nature.

According to ODIHR, during the elections there were a number of cases in which members of polling station committees were hostile towards “displaced persons” and ethnic Serbs and in some instances even denied them their right to vote. Problems were also noted with regard to inaccurate voter lists as prepared by the Office for Displaced Persons and Refugees and many “displaced persons” were required to follow a burdensome administrative procedure to receive certificates to vote. Many of those not on the lists were told by voting committees that they were not entitled to vote.⁶⁵

Although ODIHR recommended that the distinction between “displaced persons” and “expellees” be removed in order to ensure equal treatment for all internally displaced persons, it remained in force for the two rounds of the presidential elections held in January and February 2000. Again voter lists for “displaced persons” at their two assigned polling stations were inaccurate and some of the displaced were required to follow the same burdensome procedures as in the parliamentary elections in order to be able to vote. The problem was also reported in the second round of the presidential elections in February, that is to say during the third election in a five week period. ODIHR noted that turnout among “displaced persons” was also much lower than during the parliamentary election, a possible indication that “problems experienced by voters on 3 January acted as a disincentive to participate.” Again, ODIHR recommended that the distinction between “displaced persons” and “expellees” be removed.⁶⁶

⁶⁰ Ibid.

⁶¹ *Election of Representatives to the Chamber of Counties of the Parliament and of Representative of Local Government and Self-Government Bodies of the Republic of Croatia, 13 April 1997. OSCE/ODIHR Report.*

⁶² Ibid.

⁶³ Ibid.

⁶⁴ OSCE/ODIHR, *Republic of Croatia—Parliamentary Elections (House of Representatives) 2 and 3 January 2000. Final Report (25 April 2000).*

⁶⁵ Ibid.

⁶⁶ OSCE/ODIHR, *Republic of Croatia—Extraordinary Presidential Elections 24 January and 7 February 2000. Final Report (31 May 2000).*

It has been observed that “[w]ith its recent experience of war and anarchy, it may be surprising that Georgia has emerged as stable and as democratic as it is now. Most political institutions, including the government and leading political parties, explicitly acknowledge and support democratic values and rights. By the standards of the region democracy works well in practice.”⁶⁷ However, there is still much to be done: “[d]emocracy remains a vaguely understood notion for many in power and for much of the population” - not least among them, the 280,000 persons who remain internally displaced following still unresolved internal conflicts in the regions of Abkhazia and South Ossetia.⁶⁸ In parliamentary and local elections which have taken place since the entry into force of the 1995 Constitution, the internally displaced in Georgia have experienced a rather different and limited notion of democracy and political participation compared to their non-displaced compatriots; moreover, it is a discrepancy which is enshrined in national legislation.

Parliamentary elections were held in Georgia in October 1999. Pursuant to the relevant constitutional provisions, the Parliament is elected by a mixed election system whereby 150 seats are allocated proportionally through nationwide party lists and the remaining 85 seats through single-seat constituencies on the basis of free, universal, equal and direct suffrage.⁶⁹ The constitutional provisions are elaborated upon more fully in the 1995 “Organic Law of Georgia on Parliamentary Elections,” Article 33(1) of which provides that: “Forcefully displaced persons shall be included in the voter’s lists according to their present places of residence. A separate list shall be compiled for displaced persons and they shall not participate in the majority elections held in single-mandate districts.” Thus, internally displaced persons may vote for the nationwide or proportional list only and not for the representative to Parliament from the district in which they are “temporarily” residing. Provision is made instead to extend the mandates of the eight deputies from Abkhazia until such a time as elections can be held there, while the two South Ossetian seats remain vacant.⁷⁰

The Government maintains that its position on voting rights for internally displaced persons accords with the wishes of the internally displaced.⁷¹ Indeed, there are genuine concerns among some of the internally displaced that by voting for the local candidate they would be accepting the *de facto* territorial situation and would thereby relinquish their right to return to their homes in Abkhazia and South Ossetia.⁷² Such fears, which are not dispelled by the Government for political

⁶⁷ UNDP, *Human Development Report: Georgia 1998* (1999) 19.

⁶⁸ See UNHCR, *1998 Global Report: Achievements and Impact* (June 1999) 418. This figure includes also 40,000 persons who were displaced by the resumption of hostilities in Gali (Abkhazia) in May 1998. Of these 280,000, 96 percent originated from Abkhazia, while the remainder were ethnic Georgians from South Ossetia.

⁶⁹ Art. 49(1), Constitution of the Republic of Georgia.

⁷⁰ Chapter IX of the 1995 Election Law, concerning “Transitional Provisions for the 1999 Parliamentary Elections” provides in Art. 59: “Before the complete restoration of the jurisdiction of Abkhazia and before the necessary conditions are created for the elections of members of the Parliament of Georgia: (a) Citizens elected from Abkhazia as a result of the 1992 elections who are members of the Parliament of Georgia by the time of the enforcement of this Law, shall have their mandate as members of Parliament extended. As soon as elections for Parliament are held in the single mandate districts of Abkhazia and the authority of those members are acknowledged, the mandate of a Member of Parliament who had extended authority shall be terminated.”

⁷¹ See OSCE/ODIHR, Brookings Institution Project on Internal Displacement and Norwegian Refugee Council, *Regional Workshop on Internal Displacement in the South Caucasus (Armenia, Azerbaijan, Georgia) May 10-12, 2000. Summary Report* (June 2000).

⁷² As ODIHR’s final report on the 1999 Parliamentary Elections notes, “[r]epresentatives from the Citizens Union of Georgia [the ruling party], stated that IDPs prefer not to vote in the single-member ballot as to do so would mean that they have taken permanent residence. This in turn would mean loss of state benefits and a mistaken belief that they have relinquished their rights to return to their homes in Abkhazia or South

reasons, are of course flawed: the right to return to one's place of origin and the right to vote at the local level for the person who can work to influence one's current conditions are not mutually exclusive. There is no reasonable or objective reason why the internally displaced should not vote for the representative of the area in which they are "temporarily" residing and at the same time not maintain the right to return, when the necessary conditions are achieved.

The position of the internally displaced in Georgia *vis-à-vis* political participation has been the subject of only limited scrutiny by ODIHR. In its report on the 1995 parliamentary elections (in which the same legal provisions applied as during the 1999 elections), ODIHR's concerns were essentially of a practical nature: that the presence of large numbers of internally displaced persons at polling stations might impede the effective operation of some polling stations. It reported that during the election "[m]ost [internally displaced persons] knew their rights under the law" though in some cases "quarrels broke out when those not familiar with the voting provisions demanded the [majoritarian] ballot. For the most part the process was orderly as the [internally displaced] were known to the officials in the new areas in which they are resident."⁷³ There was no comment on the nature of the law itself. This may be explained by the fact that until 1996, ODIHR's observation activities worked on the basis that election observation was a "one-day event" with little analysis of pre-election events.⁷⁴ Although the Budapest Summit in December 1994 broadened ODIHR's mandate to encompass a longer-term approach and take into account the entire election cycle, including the registration of voters and candidates, campaigning, the role of the media, voting, counting, declaration of results and instalment into office of those elected,⁷⁵ it was not until 1996 that the office was provided with the requisite financial and human resources to implement this new approach.

Nonetheless, in the case of Georgia, there is still need for improvement in the implementation of the new approach *vis-à-vis* voting by the internally displaced. In a press statement on the 1998 local elections which were held in accordance with the "Law of Georgia on Elections of Local Representative Bodies" and under which internally displaced persons do not have the right to vote at all,⁷⁶ OSCE only went as far as to suggest the need to review the "principles on the voting of temporary residents."⁷⁷ ODIHR's report on the 1999 parliamentary elections showed a welcome improvement in its stance on the issue, noting that the "partial participation of [internally displaced persons] in the electoral process raises questions in terms of equality of rights."⁷⁸ Reference was made also to the relevant provisions of the Guiding Principles on Internal Displacement. However, while the report contains a section of quite specific recommendations, none explicitly address the question of equality of rights for the internally displaced, except in so far as stating that the "legal framework for elections in Georgia should be reviewed comprehensively in order to address the concerns outlined in this report."⁷⁹ A review of the electoral legislation was due to be undertaken by ODIHR during the course of 2000, so as to improve the electoral framework and follow up on its recommendations.⁸⁰ To date, the review has not yet begun.

Ossetia." OSCE/ODIHR, *Georgia: Parliamentary Elections, 31 October and 14 November 1999. Final Report* (7 February 2000) 16. Of course, the extent to which the CUG speaks on behalf of the internally displaced may be open to question.

⁷³ OSCE/ODIHR *Report on the Georgian Elections of 5 November 1995* (17 November 1995) 5-6.

⁷⁴ See ODIHR, *The ODIHR Election Observation Handbook* (April 1999).

⁷⁵ Ibid. See also section VIII of the CSCE "Budapest Document—Towards a Genuine Partnership in a New Era" (1994).

⁷⁶ Pursuant to Art. 36, internally displaced persons from Abkhazia and South Ossetia shall not participate in the first local governments elections.

⁷⁷ OSCE Mission to Georgia, *Press Statement on Local Elections 15 November 1998* (17 November 1998).

⁷⁸ OSCE/ODIHR, note 72 above, at 16.

⁷⁹ Ibid., at 91.

⁸⁰ A description of the project may be viewed at: www.osce.org/odihr/cal2000_ea.htm#p14

Political participation by the internally displaced in Georgia was one of a number of issues discussed at a regional workshop on internal displacement in the South Caucasus, co-sponsored by ODIHR, the Brookings Institution Project on Internal Displacement and the Norwegian Refugee Council.⁸¹ NGO participants drew attention to the problem and a representative of the Government, while conceding that the policy may need revision, sought to explain the reasoning behind it, noting that under the old *propiska* system a person is tied to their place of permanent residence. Moreover, if the Government were to extend to an internally displaced person the full rights to which they are entitled back in their place of residence it would effectively legitimise “ethnic cleansing.”

As follow-up to the workshop, ODIHR and the Brookings Project plan to support a programme whereby NGOs in Georgia, as well as Armenia and Azerbaijan, will review existing national laws and practices, including in regard to political participation, in terms of the Guiding Principles on Internal Displacement and make appropriate recommendations for reform.

RUSSIAN FEDERATION/CHECHNYA

Although internally displaced Chechens were entitled to vote in the December 1999 elections to the State Duma, their ability to do so was undermined by the lack of appropriate arrangements to facilitate their exercise of this right. The Russian Federation’s 450-seat Duma is elected through a mixed system whereby 225 seats are divided on the basis of national party lists, and the remaining 225 seats on the basis of single-member districts. While the election of the deputy for the district of Chechnya was suspended in view of the conflict, pursuant to the relevant national legal provisions,⁸² internally displaced Chechens temporarily registered outside Chechnya or in areas of Chechnya under Russian control were entitled to vote for the national party list.

Implementation, however, of the law as it pertained to the internally displaced was far from satisfactory. In early November 1999 the Federal Minister for Emergency Situations announced that polling stations would be organised for internally displaced persons outside Chechnya and in Russian-controlled areas of Chechnya, but as ODIHR reported, such arrangements “never materialised.”⁸³ For instance, in one camp for the displaced in neighbouring Ingushetia, a single bus was provided to transport some 9000 displaced persons to vote in a nearby town.⁸⁴ Ballot boxes were eventually brought to the camp, though not until the afternoon. It is not clear how efficiently the polling authorities were able to facilitate voting by all those eligible to vote at that late time.

The authorities appeared to have undertaken concerted efforts in the Russian presidential elections of April 2000 to ensure that internally displaced persons were able to vote. In the first place, polling was held in 12 of the 15 districts of the Chechen Republic despite the conflict situation persisting there.⁸⁵ Second, internally displaced persons residing in neighbouring republics were given status as residents (noted by a stamp in their passport or residency certificates) and were able to cast ballots at regular polling stations.⁸⁶ According to ODIHR, many of those who had registered as internally displaced persons had already been added to the voter lists of the polling stations in regions to which they had been displaced. Also, anyone with a stamp in their passport or residency certificate indicating their being domiciled in a camp located in the area served by the

⁸¹ See note 71 above.

⁸² Art. 16(6), Federal Law on the Election of Deputies to the State Duma of the Russian Federation.

⁸³ OSCE/ODIHR, *Russian Federation—Elections to the State Duma, 19 December 1999. Final Report* (13 February 2000) 12.

⁸⁴ “Few Chechen Refugees Voting,” *Associated Press*, 19 December 1999.

⁸⁵ OSCE/ODIHR, *Russian Federation—Presidential Elections, 26 March 2000. Final Report* (19 May 2000)

16.

⁸⁶ *Ibid.*

polling station but whose names did not appear on the voter list was added to the “additional” voters register on the day.⁸⁷

Encouraging though such measures are, it should be noted that ODIHR also observed, seemingly in regard to Chechnya only, that a major concern was that many Chechens had lost their passports and other forms of identification. Special efforts were reportedly made by the Federal Ministry of the Interior to provide passports or special certificates that indicated that persons had officially applied for replacements. These certificates were to be acceptable as proof of identity on election day and polling officials were to be flexible regarding documentation requirements, with voters being able to cast ballots on the basis of almost any form of identity. However, it is not clear to what extent these measures were actually carried through. The problems experienced by displaced Chechens in December 1999 may give cause for doubt. In addition, it may be assumed that the problem of lost documentation was not unique to those Chechens still within Chechnya but also affected those displaced in neighbouring republics. Indeed, one report indicates that some 20,000 displaced Chechens in Ingushetia do not have identification documents.⁸⁸ It is not clear whether the same flexibility as to proof of identity was also to be applied in the neighbouring republics - an important consideration given that displaced Chechens outside Chechnya required the above-mentioned stamp in their passport or residency certificate indicating their current residency.

In August 2000, and in view of the Federal Government’s nominal control of the Chechen Republic, a by-election was held to elect Chechnya’s representative to the lower house of the State Duma. As indicated above, this had not been possible during the parliamentary elections in December 1999 due to the conflict situation. Prior to the by-election, the head of the Chechen administration expressed confidence that the whole population of the Chechen Republic would participate in the election, including those internally displaced both within Chechnya and in neighbouring Ingushetia. While this was to be facilitated by the establishment of polling stations at the border crossings between Ingushetia and Chechnya,⁸⁹ it should be noted that internally displaced Chechens are found also in the Russian territories of Dagestan, North Ossetia and Stavropol Krai. There was no mention of similar arrangements to enable those displaced to these areas to vote. Furthermore, the extent to which such arrangements were implemented is not known, partly because there was no international monitoring of the by-election, though press reports indicate that ballots were cast by displaced Chechens “living at a camp” in Ingushetia.⁹⁰ In any event, reports by reputable NGOs prior to the election suggest that a number of the internally displaced were “very sceptical about their participation in the elections . . . [N]one of the potential candidates has ever showed up at their place or presented any election programme. The people do not believe that the elections will change their fate in any way.”⁹¹ On the day, less than 50 percent of the 500,000 registered voters actually voted, with the highest participation rate being among the approximately 20,000 soldiers and other federal forces permanently stationed in the area.⁹²

⁸⁷ Ibid.

⁸⁸ Danish Refugee Council, *Ingushetia Situation Report No. 26* (15 August 2000).

⁸⁹ Ibid.

⁹⁰ “Chechens Vote for Parliament Deputy”, *Associated Press*, 20 August 2000.

⁹¹ Danish Refugee Council, note 88 above.

⁹² “Chechen Rebels Brand By-Election a Sham”, *The Irish Times*, 21 August 2000.

CONCLUSION

In accordance with universal and regional human rights standards, restated in the Guiding Principles on Internal Displacement, internally displaced persons who are citizens continue to enjoy the right to political participation on the same basis as their non-displaced compatriots. Being displaced is not sufficient or reasonable cause for denying or restricting the exercise of the right to vote by internally displaced persons. However, a brief survey of practice within a number of OSCE participating states shows that it sometimes is. Internally displaced persons may be unable to vote on a par with their fellow citizens as a result of various obstacles which, to a greater or lesser extent, may reflect not only practical difficulties posed by situations of displacement but also deliberate policy choices by the local or national authorities. Such cases underline the importance of reference to international standards, in particular to the Guiding Principles, as benchmarks against which to judge national laws and policies. Moreover, such cases emphasise the need for effective promotion and implementation of the Principles and other relevant international standards, including OSCE Commitments, responsibility for which rests not only with states but also with international actors such as OSCE and ODIHR, especially when they assume a key role in the conduct of the elections. Indeed, it is incumbent upon actors like OSCE and ODIHR to take issue with the sorts of practices identified and to actively seek the necessary reform at the national level so as to ensure that the will of the people is expressed through “universal and equal suffrage” in accordance with international and regional human rights standards.