

# **Colour Revolutions aftermath of Elections: the Emerging Legal Responses in Ethiopia and their Constitutionality**

**By- Atdualem Nega**

**Advisor- Yared Legesse (LLB, LLM, PhD)**

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Approved by Board of Examiners

Advisor: Name Xayned Legesse  
Signature [Signature]  
Date 3rd Mar., 2011

Examiner1: Name ERMIYAS KOSTRE  
Signature [Signature]  
Date 8th Mar., 2011

Examiner2: Name mohamed narah  
Signature [Signature]  
Date 8th march 2011

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## List of Acronyms

AU	African Union
CCP	Chinese Communist Party
CIA	Central Intelligence Agency
CSO	Civil Society Organization
CUD	Coalition for Unity and Democracy
DEGUE	Amharic term for the committee of military government in power from 1975-1991
EDFU	Ethiopian Democratic Forces Union
FDRE	Federal Democratic Republic of Ethiopia
EFDUP	Ethiopian Federalist Democratic Union Party
EPRDF	Ethiopian People's Revolutionary Democratic Front
EU	European Union
GINBOT SEBAT	Amharic term to refer a group revolts against the government after 2005 election
ICCPR	International Covenant on Civil and Political Rights
MEDREK	Amharic term to refer EFDUP
NATO	North Atlantic Treaty Organization
NEB	National Election Board
NGO	Non- Governmental Organization
OLF	Oromo Liberation Front
OLNF	Oromo Libration National Front
ONC	Oromo National Congress
PDRE	Peoples Democratic Republic of Ethiopia
SHENGO	Amharic term to refer the national parliament from 1995-1991
UDHR	Universal Declaration on Human Rights
Ugaz	Traditional institution in Afar which lead the community under the state
UK	United Kingdom
UN	United Nation
USA	United State of America
USSR	United Socialist Soviet Republic

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# Chapter One

## Introduction

### 1.1. Background of the Study

Following the disintegration of USSR at the Last decade of 20<sup>th</sup>c, the so called coloured revolutions are emerged as one way of addressing public grievances and a mechanism to change the corrupted system on the guise of election fraud. Accordingly, as soon as the balkanization of post communist regime, the area started to be challenged by public riots to change the pseudo-democracy into the real democracy.

The sight of thousands of people demanding clean elections and the end to corrupt regimes well expressed by coloured revolutions which are conducted in different countries with in the regime. Velvet Revolution (Czech, 1989), Gentle revolution (Slovak, 1989), Bulldozer revolution (Yugoslavia 2000), Rose revolution (Georgia, 2003), orange revolution (Ukraine 2004) and Tulip revolution (Kyrgyzstan 2005) are the most prominent rallies which bring down the system.

**Velvet and Gentle Revolutions** were non-violent revolutions in Czechoslovakia conducted from (November 17-December 29, 1989) mainly mobilized by students. That event sparked a series of popular demonstrations from November 19 to late December. A two-hour general strike, involving all citizens of Czechoslovakia was held on November 27. After this riot, the communist party of Czechoslovakia announced on November 28 that it would relinquish power and dismantle the single party state. On December 10 the first largely non-communist government in Czechoslovakia since 1948 is come to power and the prior government resigned from power. In June 1990 Czechoslovakia held its first democratic election since 1946. Terms, *velvet* (Czech) and *Gentle* (Slovakia), were devised to express its non violent nature of the revolution.

**Bulldozer Revolution** is another famous coloured revolution took place in Yugoslavia in 2000. Incumbent president Slobodan Milosevic Scheduled early presidential election for September 24,2000 assuming that he would easily win, even though his term as

Yugoslavia president did not expire until July 2001. On September 26, the Yugoslav election commission announced the opposition had gained the most support with 48.2 percent of the vote but the second round run off is necessary to secure 50%.

The opposition leader Vojislav Kostunica on his side announced he won 55% and refused to participate in the runoff on the ground of "Political fraud and obvious stealing of vote." The following day opposition leaders called for a total "blockage" of all institutions in Serbia and over 200,000 people took to the streets of Belgrade. On October 5 over half of a million people marched on Belgrade and quickly seized control of major government institutions. Protestors used a front-end loader to break through barricades thus earning the events the name of the "Bulldozer revolution." The following day Milosevic resigned from power and the constitutional court declared the victory of Kostunica.

**Rose Revolution** on the other hand sparked by a legislative as opposed to presidential election in Georgia at most three years later. Following the November 2, 2003 Georgian parliamentary elections, small scale protestors began in Tbilisi as various report of fraud is announced. By the time the Georgian central election commission proclaimed the official results handing victory to the pro-president Edward Shevardnadze "For a new Georgia" bloc the crowds had swelled to over 100,000 people. During the inaugural session of the newly elected parliament, protestors led by opposite leader Mikhail Saakasvilli- holding a rose to show he is unarmed, stormed the parliament demanding Shevardnadze's resignation. Shevardnadze resigned the following day after he claim he would not step down originally. Shortly, there after the constitutional court arranged new elections in most part of the country and the opposition won 96.2% of the seat.

**Orange Revolution** on October 31, 2004, victor Yanukovich, the officially anointed successor to the regime of outgoing president Leonid Kuchima and opposition leader victor Yushchenko contested for the presidential position and get the vote 39.3 and 39.9 percent respectively in Ukraine. As neither surpassed the 50% threshold necessary for a first round victory, the two advanced to a November 21 run off. But the second round election marked by wide spread instances of voter fraud concluded through declaring the

victory of Yanukovich by a 49.5 percent to 46.6 percent margin. Supports of Yuschchenko took the streets of Kiev in protest, now famously adorned in orange clothing representing the colour the victory to Yushechenko by a 52-43 percent margin.

Following a parliamentary resolution declaring the results invalid and a vote of no confidence in the government, the Supreme Court declared the second round election results to be invalid and ordered that the round be run again. This “second” second round election concluded through the victory of Yuschchenko by a 52 to 44.2 percent margin.

**Tulip Revolution** like Georgia, the Kyrgyz tulip revolution took place after allegations of major electoral fraud in a legislative election. The February 27 and March 23, 2005 elections were full of fraud and regime interference which stacked the parliament with president Askar Akayev allies and his families. The opposition won a total of 6 out of 75 seats. On March 15, protestors began in the city of Jalalabad demanding Akaev’s ouster and over the next week would spread to other parts of the country including Talas and Osh. The protest culminated through resigning the president and substituted by Kurmabek Bakiyev and the parliament was allowed to operate without new elections as part of negotiations among the various opposition figures. Unlike other coloured revolutions, the Tulip revolution had its violent aspects, with death and looting.

Not only these countries, scholars in the west seem to suggest that central Eurasia and the whole region encompassed by the post soviet states of Eurasia are about to be swept up in these new wave of colored revolutions. Developing countries including African states also faced with these upheavals.

At the eve of 2005 election and aftermath election movements /upheavals/ organized by CUD were signals of diffusion of colored revolution to Ethiopia also. Though, such organized protests were curtailed successfully, the result would not be different from other coloured revolutions. Knowing this fact, the government has taken different measures aftermath of the election. Legislations such as the amendment of electoral laws, the revised political parties’ registration, anti-terrorism, charities and societies’

registration and electoral code of conduct for political parties are some of the legislations endorsed by the parliament. These legislations have some stringent provisions which erode the fundamental rights and freedoms and their constitutionality are underscored.

## **1.2. Statement of the Problem**

From there background coloured revolutions are becoming one way of addressing public grievances in transitional and emerging states. Though the event is going on in different part of the world the issue is much serious in the post communist regime. In relation to this issue, there is a great controversy regarding the true meaning of coloured revolution, its legitimacy, and the blurred distinction with the real revolutions. Accordingly, the research will ascertain the true meaning of the concept, its legitimacy and its distinction with classical revolution.

The other dubious fact in relation to coloured revolution is identifying the real actors behind it. In most upheavals conducted before, the real players of the game were the western bloc policy singers. Still the real intention of these actors and the real causes of colored revolutions and why it is interesting aftermath of elections are the main challenges to be investigated.

It is not all countries under the post communist regime and all totalitarian governments in the world do faced with colored revolutions. Even in those countries the upheaval conducted, in some of them the intended result did not come out. Therefore which totalitarian systems are more vulnerable for colored revolutions and what are the determinants of success to regime change are not still resolved. Literatures in the area are silent regarding the constitutional status of the event. In the Ethiopian aspect also the constitutionality of the event is uncertain. Then, evaluating it's constitutionality in line of its purpose shall be another focus of the study.

The attempts after 2005 election result and the vulnerability of the country to such upheavals shall also be considered dully. Inline of this, the protest organized by CUD and the prime ministers decree to prohibit such movements signifies the diffusion of coloured revolutions in to our country. Then the legitimacy of the prime ministers power

to declare this decree is subject to scrutiny in this thesis. The decision of the constitutional inquiry council on this directive shall be subject to analysis. Aftermath of election 2005 onwards the government enacted subsequent legislations which have direct impact on the issue. Among those enacted laws-Electoral laws, the revised political parties' registration, anti-terrorism, charities and societies' registration and electoral code of conduct for political parties are legislations much fit with the research.

Accordingly this study is devoted for ascertaining the legitimacy (constitutionality) of these laws, its efficiency to avoid the event, and the recognition of other areas of expressing grievances to albeit such problem. At last, but not least, the practical situation beyond legislations after 2005 election shall be the subject of research to achieve the full end of the research.

### **1.3. Research Question**

1. What is colour revolution? What makes it different from real revolution and civil disobedience?
2. What are the real causes of coloured revolutions? Why coloured revolutions after election results? What is collective action frame work in relation to coloured revolution? Why are stolen/fraudulent elections necessary for revolutions?
3. What is the role of civil societies, foreign actors and political elites in the event?
4. In what conditions is this repertoire effective? Against what sort of regime is it likely to work? Do the coloured revolutions bring the intended results? Does the power of Example or diffusion have any value?
5. Are there countries which make it the constitutional right in the world? Is it legitimate to conduct coloured revolution in Ethiopia?
6. Does Ethiopia faced with coloured revolutions? What about the intendments to call protest by CUD and the responses of the prime minister? Do the new legislations resolve the issue of coloured revolution? Did it widen the chance or narrowed it? What about the constitutionality of these laws in this area?
7. What we observe from the practice, starting from 2005 election?

#### **1.4. Objective of the Study**

The Overall aim of this research is to make a compressive study of coloured revolution at the global level and the Ethiopian situation. In doing so the research tries to achieve the following goals:

- To deal with the whole notion of coloured revolution at the global level especially from the post communist regime and to show the emerging trend of the event.
- To address the real causes of the revolution and the specific roles of stake holders
- To show the link between coloured revolutions and fraudulent elections.
- To assess the new legislation of the parliament and its implication on this event.
- To evaluate the constitutionality of coloured revolution in Ethiopia and to weigh the new laws efficiency to resolve the problem.
- To make some concluding remarks based on the finding of the study and give some recommendations

#### **1.5. Significance of the Study**

After the completion, the study will contribute the following rewards to the academic community, further researchers, students, the government, and the general public as a whole.

- Serve as an input to further research in the area
- The government and the legislative organ will take the clue as an input to modify the law and to protect the legal order.
- It will help to grow the public and the political elite's perception in relation to coloured revolution.

#### **1.6. Scope of the Study**

The research will encompass the experiences of the five post communist regime countries experience and the stakeholders behind the scene. The Ethiopian new legal regime and the practical situation after 2005 election will be included in the study. The new developments till the completion of the research in the world will be subject of the study.

### **1.7. Methodology**

The Methodology that is going to be employed is largely desk top based study which includes an analysis of literature including relevant primary and secondary sources. Valid information will be gathered from books, internet, articles and journals. To achieve the totality of its end interview with competent personalities will be conducted. The methodology shall device qualitative research methodology for interview and quantitative approach for other area of the inquiry. The relevant legislations of the country will be consulted and analyzed

## Chapter Two

### An Overview of the Concept of Election

#### 2.1. Definition and Notion of Election

In the modern era an election where the will of the public can be tasted fairly and the population can choose freely who is to govern them is an essential element of democracy.<sup>1</sup> Even though election is an indispensable element of democracy, democracy to be realized through election it requires a long term undertaking that will lead to a strengthening of national institutions, values, mechanisms and democratic processes.<sup>2</sup>

It is consensual that the conduct of election is vital for democracy. But other elements of democracy such as human right protection, freedom of expression and opinion, association, access to power and its exercise in accordance with rule of law, multi-party system and organization, the separation of powers, the independence of the judiciary, transparency and accountability in public administration and free, independent and pluralistic media are commutative requirements to realize true democracy.<sup>3</sup>

Before this modern perception of the concept of election, in a classical form, it emerged from ancient Greece and Rome in a way which can not accommodate interests of different social groups such as women and unprivileged social classes like slaves. In ancient Greece democracy, public officials were occasionally elected but more often were chosen by lot in a direct democracy with the exclusion of woman which is half percent of the population. In Rome the popular assemblies elected the tribunes, like Greece democracy they exclude slaves and woman. In the middle ages elections were abandoned, except for such process as elections to the papacy and in a more limited sense of the wholly Roman empire by a small and partly hereditary body of electors.<sup>4</sup> The perception

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<sup>1</sup> Marcy Anne, Griffith Travesty, *Democracy, Parliament and Electoral Systems*, Commonwealth Parliamentary Association, London, 2002 P.

<sup>2</sup> United Nation Human Rights Commission Continuing Dialogue Resolution 2001/41, *on Promoting and Consolidating Democracy*, 23 April 2001 Para. 4.

<sup>3</sup> United Nation Commission on Human Rights Resolution 2002/46, *Further Measures to Promote and Consolidate Democracy*, 23 April 2002 (43-0-9), Para 1.

<sup>4</sup> Britannica Concise Encyclopedia, *General History of Election*, available on the Internet at: <http://www.answers.com/topic/election>, last visited November 29, 2010.

of the public as election is the formal process by which voters make their political choices on public issues or candidates for public office is the recent development.<sup>5</sup>

Before this in the 17<sup>th</sup> and 18<sup>th</sup> century philosopher, in book II chapter II of the book “the spirit of laws” Montesquieu states that: *In the case of elections in either republic or a democracy voter alternate between being the rulers of the country and being the subjects of government. By the act of voting the people operate in a sovereign (ruling) capacity, acting as masters to select their governments come.*<sup>6</sup>

Thus, the acting of election revolves around being the voter and being the ruler or as to Montesquieu being ruler or ruled. Accordingly, the use of elections in the modern era to decide the fate of the ruled and to manage the whole system of the country in a new spirit traces back to the emergence of representative government in Europe (in 13<sup>th</sup> in England) and North America since the 17<sup>th</sup> century and inseparable from the growth of democratic form of government<sup>7</sup>. From the above stated fact it is possible to define election as a formal decision making process by which a population chooses an individual to hold public office in a democratic playing field.<sup>8</sup>

On doing so, elections may fill offices in the legislature some times in the executive and judiciary, and for regional and local governments. Elections were considered an oligarchic institution and most political offices were filled using sortition, also known as allotment by which office holders were chosen by lot.<sup>9</sup>

But, elections today are designed to serve different goals. In countries around the world elections have served to solve long standing conflicts and to initiate or consolidate transitions to democracy. It is also central to peace agreement after conflict. Fair elections have become an increasingly critical requirement for governments to have legitimacy in

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<sup>5</sup>Ibid.

<sup>6</sup> Britannica Concise Encyclopedia, *Election (Political Sciences)*, August 18/2009, available on the Internet at: <http://www.answers.com/topic/election>, last visited November 29, 2010.

<sup>7</sup> Columbia Encyclopedia, *General History of Election*, Available on the Internet at: <http://www.answers.com/topic/election>, Last Visited November 29, 2010.

<sup>8</sup> Britannica Concise Encyclopedia, *supra* note 6.

<sup>9</sup> Ibid.

the eyes of the international community and their own citizens. Electoral legitimacy and outcomes, greatly affect the prospects for effective governance.<sup>10</sup> With regard to promoting democracy, Eric Bjorn Lund, at his article “Free and Fair Elections” states that election serves the following goals.<sup>11</sup>

First, Competitive elections can catalyze profound political change in a society. Especially, elections in societies in transition or crises can be seminal events that if successful not only confer legitimacy on governments but also can profoundly influence institutions, power, arrangements and citizens expectations. Therefore it establishes the new spirit of democracy after a long history of conflict, poverty or crisis.

Second, elections provide significant new opportunities for citizen involvement in public affairs they are an opportunity to engage civic organizations and citizens in democratic politics through voter education, election monitoring, policy research and advocacy. They can provide avenue for the participation of women, minorities and disadvantaged groups who traditionally have had less access to politics and governance.

Finally, Competitive elections offer means of establishing accountability, channeling political competition and determining leadership succession. Genuine democracy of course requires substantially more than democratic elections. Elections in commutative with other elements of democracy, provide a peaceful democratic means for societies to channel competition for political power and make collective decisions. By casting votes to select who will represent them in public office, citizens express preferences about the policies, those representatives will pursue.<sup>12</sup>

Generally the notion of election evolved from classical perception which excludes certain class or sections of the society and unprivileged groups, reaches at universal right and the sole legitimate mechanism to transfer power and international norm to states and institutions.

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<sup>10</sup> Eric Bjorn Lund, *Free and Fair Elections*, Democracy International, P.1.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid. P.2.

## 2.2 Conducting Free and Fair Elections

Save other elements constant, the ultimate goal of democracy is conducting free and fair elections where every one who is entitled to vote is allowed and the decision that results is the will of the majority and accepted by all. The holding of elections allows the population to choose individuals of integrity to represent them and to vote against those who abuse their position.<sup>13</sup> The free and fair competition of various political interests through effective institutions provides a non-violent avenue for resolving differences with in a polity and the out come of this process tends towards a just mean that removes the incentive for violence.<sup>14</sup>

Taking in to consideration this fact the 1948 United Nations Universal Declaration on Human Rights at its article 21 (3) affirmed that: *The Will of the people shall be the basis of the authority of government, this will shall be expressed in the periodic and genuine elections which shall by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedure.*<sup>15</sup>

By the same token, the international covenant on civil and political rights declared that: *every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 to vote and to be elected at genuine periodic elections which shall be universal and equal suffrage and shall be held by secret ballot guarantying the free expression of the will of the elections.*<sup>16</sup>

The regional instruments have also taken the same stand. The 1981 African Charter on Human and People's Rights at article 13 declares: *Every 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.*<sup>17</sup>

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<sup>13</sup> Democracy, Parliament and Electoral Systems, *supra* note 1, P.19&105.

<sup>14</sup>United Nations General Assembly Resolution 50/185, December 22, 1995, *Para 4.*

<sup>15</sup>1948 United Nations Universal Declaration of Human Rights, *Article 21(3).*

<sup>16</sup> 1966 International Covenant on Civil and Political Rights, *Article 25.*

<sup>17</sup> 1981 African Charter on Human and Peoples' Rights, *Article 13.*

These international and regional instruments advocate the crucial role of free and fair election to address the issue of democracy. As a result there is no dissent today from the fundamental principle that the will of the people is the sole basis for the authority of government or that such will is to be expressed and accepted by the way of periodic, genuine, free and fair elections conducted on the basis of universal, equal and secret suffrage.<sup>18</sup>

The rationale for elections to be held periodically is that in principle, this allows the electorate to judge and if appropriate to rid it self of a particular government or legislature. In this sense government and elected representatives remain accountable to the will of the people from whom they derive their authority of mandate.<sup>19</sup>

Free election is about participation and choice. United Nations Commission on Human Rights Resolution 1999/57 and 2000/47 (on promoting and consolidating democracy on promotion of the right to democracy declare that: “persons entitled to vote must be free to vote for any candidate for election and free to support or to oppose government with out undue influence or coercion of any kind that may distort or inhibit the free expression of the electors will and the results of genuine elections should be respected and implemented.”<sup>20</sup> Therefore, free vote connotes the absence of undue influence or coercion, violence or threat of violence, compulsion, inducement or manipulative interference of any kind.

On the other hand, fairness connotes equality of participation and of the votes and about impartiality and non discrimination. The commission on human rights in 2005 resolution on democracy and rule of law reaffirm that: *the right of every citizen to vote and to be elected at genuine, periodic election without discrimination of any kind such as race, color, sex, language, religion, political or other opinion, national or social origin,*

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<sup>18</sup> Guys Goodwin-Gill, *Free and Fair Elections*, Inter Parliamentary Union, New Expanded Edition, France, 2006, P. 75.

<sup>19</sup> Ibid. P.76.

<sup>20</sup> United Nation Commission on Human Rights Resolution 1999/57 (*On Promotion of the Right to Democracy*), 27 April 1999 and 2000/47 (*On Promoting and Consolidating Democracy*), 25 April 2000.

*property, birth or other status.*<sup>21</sup> On this issue the 1965 international covenant on the elimination of all forms of racial discrimination declares that: *political rights in particular the rights to participate in elections to vote and to stand for election on the basis of universal and equal suffrages, 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.*<sup>22</sup>

1966 international convention on civil and political rights advocate states undertake to ensure the equal right of man and woman to the enjoyment of all civil and political rights set forth in the present covenant.<sup>23</sup>

These international instruments asserted that truly free and fair elections are always of paramount importance in the establishment of parliaments reflecting national diversity and particularly in countries emerging from violent conflict essential in consolidating and advancing the reconciliation process. Free and fair election implies the respect for human rights at large and the absence of coercion. Realizing democracy strongly requires a deeper understanding and respect for the rights of minorities and for the needs of the more vulnerable groups of society. This is only possible through free and fair expression of public will. Facilitating free and fair election in consultation with supporting the development and maintenance of the institutions necessary for the ongoing practice of democratic politics are the fundamental prerequisites for democratization. Free and fair elections are a peaceful means of discerning the will of the people of building confidence there by contributing to greater national peace and stability.<sup>24</sup>

To achieve this goal African Union declaration had elicited those elements of democratic elections. Accordingly, to be democratic election: It shall be conducted fairly and freely, under democratic constitutions and in compliance with supportive legal instruments; under a system of separation of power that ensures in particular, the independence of the

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<sup>21</sup> United Nation Commission on Human Rights Resolution, *On Democracy and Rule of Law*, 2005/32, Para 2.

<sup>22</sup> 1965 International Convention on the Elimination of All Forms of Racial Discrimination, *Article 5(c)*.

<sup>23</sup> 1966 International Covenant on Civil and Political Rights, *supra* note 16, *Article 3*.

<sup>24</sup> United Nations General Assembly Resolution 56/159, *Preamble*.

judiciary, at regular intervals by impartial, all inclusive, competent, accountable electoral institutions, staffed by well trained personnel and equipped with adequate logistics.<sup>25</sup>

European court of human rights committee, genuine, periodic elections are essential to ensure the accountability of representatives for the exercise of the legislative or executive powers vested in them.<sup>26</sup>

Like democracy “free and fair” is a standard of achievement and what is or is considered to be free and fair today, may not be so tomorrow. Given the multiple variables which result, for example from history and culture or from choices about systems and implementation, the free and fair standard must remain a guide rather than the determinant of an outcome in every case.<sup>27</sup> Free and fair election is neither that everything is relative nor that free and fair is unattainable; from the point of view of any community at any particular time, what matter matters is that any found discrepancies are both identifiable against a known back ground of law and principle and remunerable, with in the realm of political dialogue and the rule of law.<sup>28</sup>

An election can be considered free and fair while nevertheless revealing certain weaknesses and in adequacy is evident.<sup>29</sup> Determining whether an election is genuine and free and fair involves more than assessing whether electors turn up to vote. It requires a judgment on a dynamic and office evolving process which it self often demands to be seen as a critical if some what imperfect step in direction of representative democracy.<sup>30</sup> The dynamic and programmatic dimension to free and fair elections as institutional means to representative democracy can best be understood by returning once again to the underling premises.<sup>31</sup>

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<sup>25</sup> African Union, *Declaration on the Principles Governing Democratic Elections in Africa*, 2002, Togo, Lome, Article 4.

<sup>26</sup> Free and Fair Elections *supra* note 18 P.45.

<sup>27</sup> *Ibid.* P.74.

<sup>28</sup> Katz, R., *Democracy and Elections*, New York: Oxford University Press, 1967.

<sup>29</sup> Free and Fair Elections *supra* note 18 P. 74.

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.* P.73.

Inter Parliamentary Union universal declaration on democracy requires representative institutions and individual participation can not be taken for granted. It is necessary to develop conditions conducive to the genuine exercise of participatory rights, while also eliminating obstacles that prevent, hinder or inhibit this exercise.<sup>32</sup>

From these analysis well can conclude that free and fair election is a crucial element to realize democracy. But free and fair elections are not a sufficient condition for democracy is hardily surprising insofar as democracy is not a received state, a given place or a single destination but rather an evolving system or systems of self rule. Internal political self determination i.e. the right to choose freely a government, exercising all the freedoms which make the choice possible (freedom of speech or association etc) and the right that the government once chosen, continues to enjoy the consents of the people and is neither oppressive nor authoritarian.<sup>33</sup>

In general free and fair election with other elements of democracy will establish a peaceful transfer of power, establishment of norm and deterring violence.

### **2.3 Constituent Elements of Free and Fair Election**

From the above stated fact we can conclude that free electoral process is one where fundamental human rights and freedoms are respected; including freedom of speech and expression by electors, parties' candidates and the media; freedom of association, assembly, information, freedom to register as an elector a party or a candidate freedom from violence, intimidation or coercion, freedom of access to the polls, freedom of exercise the franchise in secret and freedom to question, challenge and register, complaints or objections with out negative repercussion are elements of free and fair election.

Guys Goodwin at his article on "Inter Parliamentary Union provisions" has enumerated in an elaborative way through categorizing it for about 10 basic elements free and fair election shall constitute:

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<sup>32</sup>Ibid. P.82.

<sup>33</sup> Ibid. P.88.

### 2. 3. 1. Electoral Law and System

As to his literature, there is no single political system or electoral method that is equally suited to all nations and their people. Without conform the preferences of other states, it is possible to enhance periodic and genuine elections in accordance with the will of its people, freely to choose and develop its political, social, economic and cultural systems<sup>34</sup>. Moreover, political systems and electoral processes are subject to historical, political, cultural and religious factors. No system to be more valid than any other weather the state adopts majoritarian voting system or one or other system of proportional representation.<sup>35</sup>

The Inter Parliamentary Union has noted the need among others to strike a balance between two essential considerations: *that legislative election above all must make it possible to designate a cohesive government responsible for conducting national policy and that the election primarily must guaranty representation at the national level of country's political forces and reproduce in parliament as faithful an image as possible of their relative strength.*<sup>36</sup>

United Nation commission on human rights resolutions 1999/57 on promotion of the right to democracy affirms: *developing nurturing and maintaining an electoral system that provides for the free and fair expression of the peoples will through genuine and periodic elections in particular participating directly or indirectly in the governments of his country through freely chosen representatives and taking measures as appropriate to address the representation of under represented segments of society*<sup>37</sup>. It also stresses the reasonably relationship between the elector and the elected, reflecting those elements of proportionality which also characterize the governorship principles of international law.<sup>38</sup>

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<sup>34</sup> United Nations, General Assembly Resolution 46/137, *Enhancing the Effectiveness of the Principle of Periodic and Genuine Elections*, 17 December, 1991.

<sup>35</sup> United Nations General Assembly Resolution 46/130, *Respect for the Principles of National Sovereignty and Non-Interference in the Internal Affairs of States in their Electoral Processes*, 17 December, 1991.

<sup>36</sup> Free and Fair Elections *supra* note 18, p. 114.

<sup>37</sup> Commission on Human Rights, Resolution 1999/57, *supra* note, 20.

<sup>38</sup> Free and Fair Elections *supra* note 18, p. 114.

Thus the chosen system: therefore must facilitate the expression of the will of the people through periodic<sup>39</sup> and genuine elections conducted on the basis of equal suffrage and secret ballot.<sup>40</sup>

The electoral system and its implementation may nevertheless have a direct effect on related political rights. Majoritarian systems tend to favor two parties.<sup>41</sup> They are relatively straight forward, but in multi-party situation they give satiability the advantage over equity in representation, not only are small or newer parties disadvantaged but very large parliamentary majorities may be won on the basis of minor electoral victories considered in percentage terms.<sup>42</sup> Proportional representation system aim to allocate seats to political parties proportional to the electoral strength however; they can encourage the proliferation of parties and require voting on the basis of party lists. So distancing the voter from the elected and in turn limiting the opportunities individual non party candidates.<sup>43</sup>

Equal suffrage also applies “threshold” requirements to deny representation to parties that fail to secure a prescribed percentage of the over all vote. It is to reduce sectional interests in the legislature and enhance viable government. Unless compensatory steps are taken, however this technique can effectively disenfranchise substantial minorities.<sup>44</sup>

### **2. 3. 2. Constituency Delimitation (Districting)**

Constituency delimitation (districting) raises similar considerations with respect to purpose, intent and effect in an area of some flexibility. Representation by population is a centre to the concept of democracy as is the notion of equality of voting power: the question is whether absolute or near absolute equality is called for or whether relative equality of voting power will suffice.<sup>45</sup> Some states follow the US model of absolute equality but seek instead to accord legislative seats roughly proportional to population. When setting constituency boundaries the availability of means of communication, the

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<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid. P.115.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid. P.116.

<sup>45</sup> Ibid. P.117.

geographical features of the area and the number of inhabitants shall be duly considered.<sup>46</sup>

From the international law perspective how a state delimits its electoral boundaries remains very much a product of its overall choice of electoral system. The general aim remains the same to translate the will of the people in to representative government. It varies as to population, geography, distribution and resources.<sup>47</sup>

### **2. 3. 3. Election Management**

In a free and fair election, an independent and impartially administered electoral process is essential. Experience shows that confidence is only likely where the election machinery is and appears to be impartial. In established democracies administration is handled by national and local government officials and disputes are settled by ordinary courts having a tradition of fairness and neutrality, all of whom enjoy the confidence of electorate on account alone.<sup>48</sup> The institution of an independent electoral commission is now widely adopted as important step in building traditions of independence and impartiality and the confidence of the electorate and parties alike. The ideal or most effective model will depend on the relative maturity of the national system.<sup>49</sup> The consolidation of democracy requires that the institution that manages the electoral process be independent, competent and perceived as completely fair by all candidates and parties participating in the process.<sup>50</sup> A fair electoral process is one where the playing field is reasonably level and accessible to all electors, parties and candidates and an independent, non-partisan electoral organization to administer the process.<sup>51</sup>

The power to invite local and international observers, prior to during and immediately following elections is also suggests as important mechanism to ensure fairness. The

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<sup>46</sup> Ibid. P.118.

<sup>47</sup> Ibid. P.120.

<sup>48</sup> Ibid.

<sup>49</sup> Nadais A, *Choice of Electoral Systems*, in Garber & Bjornlund, *New Democratic Frontier*, 1990, P.197-8.

<sup>50</sup> Free and Fair Elections *supra* note 18, P.125.

<sup>51</sup> What Constitutes a Free and Fair Election? *Elections in Latin America*, Common Borders, 2003-2009, P.1

presence and subsistence support for monitoring groups would assist those trying to provide for free and fair elections and could serve to discourage electoral mal practice.<sup>52</sup>

In the modern system of governance an independent electoral officer explicitly or implicitly endorsed, adequately funded and staffed separately from government whose role to run elections independently and impartially from political parties and government is essential in the transition to and consolidation of representative democracy.<sup>53</sup>

### **2. 3. 4. The Right to Vote**

Formal constitutional or statutory recognition of the citizens' right to vote is common to most states and plays both a substantial and confidence building role. A few countries make voting compulsory. The right to vote is not absolute, however and may be subject to reasonable restrictions which are not arbitrary and do not interfere with the free expression of the people's opinion. With respect to parliamentary elections, most states lay down citizen ship, age and residency requirement.<sup>54</sup>

Residency requirement upheld by the European commission on human rights, for the following reasons:<sup>55</sup>

- ✓ Non resident citizen is assumed as less directly involved or knowledgeable
- ✓ Impracticability for candidates to present electoral issues to citizens abroad
- ✓ The need to prevent electoral fraud
- ✓ The risk of which is increased by postal voting
- ✓ Link between representation and the obligation to pay taxes.

The rule of law requires that the classes of those disqualified from voting, if any be known in advance and that challenge be available in appropriate cases.<sup>56</sup> The systematic denial or abridgement of the right to vote on grounds of race, color is a gross violation of human rights and an affront to the conscience and dignity of man kind and the right to

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<sup>52</sup>Democracy, Parliament and Electoral Systems, *supra* note 1, P. 12.

<sup>53</sup>Ibid.

<sup>54</sup> Free and Fair Elections *supra* note 18, P. 126.

<sup>55</sup> Ibid.

<sup>56</sup>Ibid. P.127.

participate in political system based on common and equal citizenship and universal franchise is essential for the exercise of the principle of periodic and genuine elections.<sup>57</sup>

The principle of non discrimination to day goes beyond race, to include religion, sex, social group, political opinion or other irrelevant consideration. An electoral system which denies the vote to minority population or which disenfranchised half citizenry by for example, by excluding women, would be incompatible with international standards and incapable of reflecting the will of the people.<sup>58</sup>

In line of this argument the UN 1948 universal declaration of human rights at its article 2 declare that: *every one is entitled to all the rights and freedoms set forth in this declaration with out distinction of any kind such as race, color, sex, language, religion, political or other opinion, national or social origin, property birth or other status.*<sup>59</sup>

State parties shall also take all appropriate measures to eliminate discriminating against women in the political and public life of the country and, in particular shall ensure to women on equal terms with men right.<sup>60</sup> From this analysis it is possible to conclude that the right to vote is an essential element to realize free and fair election.

### **2. 3. 5. Voter Registration**

Giving practical effect to the right of those eligible to vote raises more serious problems. Formally recognizing the right to vote is only part of the issue, for substantial opportunities exist to frustrate the exercise of that right. For example, by obstructing access to the necessary documentation or otherwise interfering with or discouraging registration.<sup>61</sup> The electoral list is thus a crucial feature in the organization of free and fair elections. There fore, the voter registration should designed to enhance all qualified to be included, to prevent electoral abuse and fraud by individuals, special interest groups,

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<sup>57</sup>United Nations General Assembly Resolution 46/137, *supra* note 34, P.129.

<sup>58</sup> Free and Fair Elections *supra* note 18, P. 129.

<sup>59</sup> Universal Declaration of Human Rights, *supra* note 15, Art. 2

<sup>60</sup> 1979 International Convention on the Elimination of all Forms of Discrimination against Women *Art. 7.*

<sup>61</sup> Free and Fair Elections *supra* note 18, P.129.

political parties and government and be widely accepted as an authoritative and legitimate means of cataloguing the electoral population and setting disputes.<sup>62</sup>

An electoral roll of acceptable competences and accuracy lies at the heart of democratic process where the ability to vote depend on whether voters' name is on the roll<sup>63</sup>. The security of the voter registration system is thus as important as its integrity.<sup>64</sup> Voter registration and publication of verifiable lists of electors have an important part to play in building and maintain the confidence of the electorate and there by contributing also to ensuring free and fair elections. Transparency is an essential element of voter registration.<sup>65</sup>

### **2. 3. 6. Civic Education and Voter Information**

Election observation missions have repeatedly stressed the necessity for civic education, voter information and poll worker training, confirming the necessity for active programs in situations of transition of change if the result is to be truly representative of the will of the people.<sup>66</sup> A passive government policy leaving education to political parties, churches and NGOS may not be sufficient to establish the basic conditions for the conduct of free and fair election.<sup>67</sup>

### **2. 3. 7. Candidates, Political Parties and Fair Political Organization**

Article 25 of the ICCPR provides that: *every citizen has the right with out discrimination to take part in the conduct of public affairs, to be elected and to have equally access to public service in his or her country. Those rights are not absolute, however and may be subject to variety of reasonable limitations.*<sup>68</sup>

A states choice of electoral system for example may directly affect the freedom of individuals to present themselves as candidates for election otherwise than through a

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<sup>62</sup>Ibid. P.130.

<sup>63</sup>Ibid.

<sup>64</sup> Ibid. P.132.

<sup>65</sup> Ibid. P.133.

<sup>66</sup> Ibid. P.134.

<sup>67</sup> Ibid.

<sup>68</sup> 1966 ICCPR *supra* note, 16 Article 25.

recognized political party.<sup>69</sup> Threshold requirements can also limit the representation possibilities for parties that fail to obtain a certain percentage of the vote. Registration criteria may effectively prevent the formation of political parties, while state monopolies over certain resources such as funding, meeting places, transport, printing presses and the media may hinder even minimal political organization.<sup>70</sup>

European commission on human rights has held that the banning of political parties violated article 3. Parties must have reasonable opportunities to present their candidates for election but may nonetheless be subject to certain conditions for election registration and funding.<sup>71</sup> The Inter American commission on human rights has deduced the requirement that the different political groups must be allowed to participate under equal circumstances: they should all have similar basic conditions for conducting campaign.<sup>72</sup>

The criterion of a level field for the lawful activities of all political parties and thorough de-linking of government personnel and resources from those of the ruling party.<sup>73</sup> The issue of funding, the purpose of organizations to destroy the very rights and freedoms protected and others may be reasons to deter political parties.<sup>74</sup>

### **2. 3. 8. Electoral Campaigns**

A successful election does not depend on what happens on ballot day, the totality of the process must be examined including preliminary issues such as the nature of the electoral system, voter entitlement, voter registration, party organization and civic organization.<sup>75</sup>

The indices of free and fair election are especially important with respect to the conduct of the election campaign at which point a number of fundamental human rights come to play together with the responsibility of the state.

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<sup>69</sup> Free and Fair Elections *supra* note 18, P.135.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

<sup>73</sup> Commonwealth Observer Group, Kenya 1992, P. 7.

<sup>74</sup> Free and Fair Elections, *supra* note 18

<sup>75</sup> Ibid. P.142.

1966 International Covenant on Civil Political Rights, article 2 declare that: *human rights protection and peace full campaign (election environments), media access and coverage, codes of conduct in which the parties agree on the basic ground rules and to meet regularly during the campaign period clearly contribute not only to the avoidance potentially dangerous confrontation but also to popular support for the democratic process.*<sup>76</sup>

### **2. 3. 9. Balloting, Monitoring and Results**

Balloting raises the question the location of polling stations and their accessibility for population, the presence to competent officials, versed in the procedure, the presence of party representatives, secrecy of the act of voting and a security of the ballot box, the integrity of counting process and its translation in to a genuine political result.<sup>77</sup> It also involves organization and management of voting including the opening and clothing of polling stations at stated times: the arrangement of booths and orderly movement of voters, the identification and verification of votes, an established procedure for objection and challenge are essential imputes of balloting to be duly considered.<sup>78</sup>

International observers have repeatedly asserted the importance of monitors in building voter confidence and ensuring the integrity of the system. It build public confidence by ensuring that the ballot box is empty and sealed before voting, checking against the impersonation of voters, checking that no one is denied the right to vote with out cause and other activities can be assured by the monitors.<sup>79</sup>

Finally there is the count and in appropriate cases, the transfer of power to successful party in election. The monitoring of vote counts as part of an overall election observation effort can boost the confidence of voters suspicious of possible fraud, permit results to be projected more quickly than the official results and allow for the identification of actual winners and consequent exposure of any attempted manipulation.<sup>80</sup> UN Resolution

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<sup>76</sup> 1966 ICCPR *supra* note, 16 Art.2.

<sup>77</sup> Free and Fair Elections *supra* note 18, P. 153.

<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

<sup>80</sup> Ibid. P.157.

54/173, 1999, declares that: *Elections can be free and fair only if the secrecy of the ballot is protected and elections are held free of coercion and in a free and fair atmosphere and underlining the importance of respect for the results of elections that have been verified as free and fair.*<sup>81</sup>

### **2.3.10. Complaints and Dispute Resolution**

Free and fair elections in addition to the above requirements, it must also be able to deal promptly and effectively the different type of complaint that will inevitably arise. These might include refusal of the right to stand as a candidate or to vote, attempts to suppress voter turnout, alleged misinterpretation of the electoral laws or procedures, alleged violations of criminal law, disputes regarding the accuracy of the count or claim that the cumulative effect of such irregularities is so expensive as to invalidate the elections.<sup>82</sup> It requires independent, impartial institution and effective implementation and decisions are reached in a timely manner, in order that the outcome of the elections not be delayed.<sup>83</sup>

-Procedures are open, known to the electorate and parties, prompt reaction in order that continuing disturbances not interfere with the elections essential freedom to choose.

-National interest is perceived as best met by the speedy resolution of potentially divisive issues.<sup>84</sup>

In general, from the above analysis and international instrument we can witness that the constituent elements of free and fair elections can be affirmed when the concepts of universal and equal suffrage and the secrecy of ballot are well protected. Fairness also requires a level playing field specifically, there can be no misuse of public resources for campaigns and all parties and candidates must have an adequate chance of communicating with voters and winning their support, including reasonable equitable access to media.<sup>85</sup>

### **2.4. Competent Organs to Administer and Announce Election Results**

The human rights committee has stressed that the notion of effective right application to the conduct of elections. Unless strong, independent and impartial electoral authority is

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<sup>81</sup> United Nations General Assembly, *Resolution, 54/173, 1999.*

<sup>82</sup> Free and Fair Elections *supra* note 18, P.158.

<sup>83</sup> Ibid.

<sup>84</sup> Ibid.

<sup>85</sup> Free and Fair Elections *supra* note 10 P. 2.

established, it is impossible to achieve the above facts of free and fair elections. By the same token, to build the confidence of electors judicial review or equivalent process is mandatory.<sup>86</sup>

As discussed above, frequently in established democracies administration is handled by national and local government officials and disputes are settled by ordinary courts having a tradition of fairness and neutrality, all of them enjoy the confidence of the electorate on that count alone.<sup>87</sup> Local electoral committees, municipal council, chief executive officers or other senior officers of local government authorities are some of the responsible bodies for election administration in established democracies like France, Sweden and Norway. Election administration may be conferred on care taker government having no commitment to any particular political party.<sup>88</sup> At practical administrative and oversight level, the institution of an independent electoral commission is now widely adopted as an important step in building traditions of independence and impartiality and the confidence of the electorate and parties alike.<sup>89</sup>

Different systems were employed including commissions made up of an equal number of representatives of parties contesting the election, party commissions with the addition of government selected members, party representatives in proportion to the numbers candidates fielded, plus a number of judges or jurists selected by lot and commissions with members designated by parties involved in pre- election negotiations.<sup>90</sup>

The most effective model will depend on the relative maturity of the national system. Where election administration previously was in government hands with in one party or other authoritarian system with no opposition voter confidence will only likely be inspired if opposition party representatives are co- opted in to election administration. They may not be independent and indeed will usually remain partisan though, ideally in balance with competing interests at such movements the issue is not so much

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<sup>86</sup> Goodwin-Gill, *Codes of Conduct*, Human Rights Committee, General Comment 25, Para. 20.

<sup>87</sup> Free and Fair Elections *supra* note 18, p.70.

<sup>88</sup> *Ibid.* P.171.

<sup>89</sup> *Ibid.*

<sup>90</sup> Choice of Electoral Systems, *supra* note 49.

independence as transparency and no government involvement at national and polling district levels.<sup>91</sup>

Later, when other government institutions acquire a reputation for impartiality and integrity, example when judges are seen to stand for rule of law and not the party line, then independence along may be credible criterion for electoral commission membership. The national election commissions duties to be performed directly or by supervision over the lower levels, include supervising observance of the election law, organizing the preparation and conduct of elections, appointing constituency election commissions, examining complaints against constituency election commissions registering national lists of candidates, compiling and supervising the update of voter registers, keeping constituency delimitation under review, establishing forms and standards for ballot paper and other official documents; establishing and publishing the definitive results of elections, certifying those who are elected and reporting to the parliament or on conduct of elections.<sup>92</sup>

Elections proceed without fraud and manipulation and the decision that results is the will of the majority and accepted by all.<sup>93</sup> Article 17 of African charter declare that: *states reaffirm their commitments to hold regular, transparent, free and fair elections and lay down the conditions necessary for this purpose.* Art 17(4) of the charter requires national political stake holders' commitment to accept election results or to challenge results only through legal channels.<sup>94</sup>

To sum up: the consolidation of democracy requires that the institution that manages the electoral process be independent, competent and perceived as completely fair by all the candidates and parties participating in the process. The competent body to announce the

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<sup>91</sup> Commonwealth Secretariat 1993 Report on, *the Presidential, Parliamentary and Civil Elections in Kenya*, 29 December 1992.

<sup>92</sup> Election Commissions Act of 28 June 1991, *On Election to the Sejm of the Republic of Poland*, Chapter 6, and Article 49.

<sup>93</sup> Democracy, Parliament and Electoral Systems, *supra* note 1 P.105.

<sup>94</sup> Solomon T. Ebobrah, *The African Charter on Democracy, Elections and Governance in Africa*, Open Society Institute Africa Governance, Monitoring and Advocacy Project, P.4.

results also the authority which empowered by the law to administer the election and other stake holders should refrain from illicit any type of declaration till the official result is expressed by the competent body.

## **2. 5. Grounds to Challenge Election Results**

Democratic elections are widely recognized as foundation of legitimate government. By allowing citizens to choose the manner in which they are governed, elections form the starting point for all other democratic institutions and practices. Smooth political transitions after elections are essential. In a healthy democracy, candidate who lose elections relinquish power gracefully and peacefully. By doing so defeated candidates can emerge with their dignity intact and through their example contribute to the strength of their nation's democratic traditions, practices and customs. Likewise by reaching out to and showing respect for their political opponents, winning candidates help bridge differences and minimize the potential for conflict that can undermine democracy and development.<sup>95</sup> In democracy, the rule of law, democratic political institutions and independent civil societies help to respect electoral outcomes. These institutions and values in turn bolster people's faith in their governments and their willingness to support peaceful political transition.<sup>96</sup>

### **2. 5. 1 The Rule of Law**

Democracy requires respect for rule of law which survives regardless of the outcome of elections. The UN Security Council defines the rule of law as when: *All persons, institutions and entities, public and private including the state itself are accountable to the laws that are publicly promulgated, equally enforced and independently adjudicated and which are consistent with international human rights norms and standards.*<sup>97</sup>

Rule of law comprises legitimacy, fairness, effectiveness and checks and balances. Fairly enforced laws that protect all citizens help to establish democratic states legitimacy. Because such laws in healthy democracy command public respect and loyalty, citizens

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<sup>95</sup> How Democracies Transfer Power? *Journal USA*, US Department of State (Bureau of International Information Programs), P. 5.

<sup>96</sup> Ibid.

<sup>97</sup> Ibid.

accept disappointing election results. A nation where laws are implemented fairly and disputes adjudicated impartially is more stable. Unjust or discriminatory laws on the other hand undermine public respect.<sup>98</sup> If sufficiently egregious, such laws risk public disobedience or even revolt and create a climate less tolerant of unsatisfactory electoral outcomes.<sup>99</sup> Rule of law implies respect for fundamental civil rights and procedural norms and requires that these transcend the outcomes of any given election. As a result respect for the rule of law encourages peaceful election. On the contrary the violation of rule of law entails a basic ground to challenge the result of election. But if it is well preserved, a defeated candidate who challenges to accept election results simply will find himself lacking support: citizens instead will view such a figure as outlier possibly a law breaker and definitely a threat to their shared civic culture. Again citizens are less likely to support revolts or to back candidates who challenge to accept election results in a country where legal processes are respected and the state is seen as legitimate.<sup>100</sup>

### **2. 5. 2 Political Institutions**

Well developed political and electoral institutions similarly increase the likelihood of peaceful election transitions. Institutions provide the resilience that democracies require to withstand potential conflicts following controversial or contested elections. Instead of taking their grievances to the streets, defeated candidates or opposition groups can challenge election results or the fairness of election procedures through institutional mechanisms such as electoral complaint commissions or courts. The broad expectation that these institutions will adjudicate the disputes fairly makes a peaceful democratic transition more likely and diminishes the likelihood of conflict as an avenue for contesting election result.<sup>101</sup>

Strong and effective electoral institutions enhance electoral process credibility and reinforce the public expectation that electoral results will be respected. They assure defeated candidates that the victory terms of office are limited and there will be opportunities to compete again. Political institutions that remain or check, governmental

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<sup>98</sup> Ibid.

<sup>99</sup> Ibid.

<sup>100</sup> Ibid.

<sup>101</sup> Ibid.

power also contribute to stability. This is especially important in new and developing democracies where election outcomes can produce uncertain political environments or moments of crises<sup>102</sup>. If a political leader refuses to accept the election results a strong, independent judiciary capable of resisting that recalcitrance is crucial. Established political institutions channel dissent and create incentives for leaders and bureaucracy to govern democratically.<sup>103</sup>

As Barack Obama said to Ghana parliament:<sup>104</sup> *In the 21<sup>st</sup> century, capable, reliable and transparent institutions are keys to success: strong parliaments and honest police forces, independent judges and journalists a vibrant private sector and civil society.* In default of these institutions, it is a good ground to challenge the whole system and the outcome.

### **2. 5. 3. Civil Society**

The existence and well functioning of civil societies enhances the legitimacy of democratic practices reinforces expectations that electoral winners and losers will respect the rules of game; can act as a check on governmental power and deter election losers tempted to thwart the democratic process. Genuinely, independent and broadly representative NGOs and other civil society institutions help ensure that candidates and elected officials respect election results and democratic process.<sup>105</sup> Civil society's help citizens develop new ways to call for government accountability and transparency and increase the incentives of governments to adhere to democratic norms and principles.<sup>106</sup>

States where institutions represent diverse interests channel public demands, facilitate political discourse and implement laws effectively and impartially are more likely to command respect. In those nations the possibility of effecting change through peaceful means discourages extra constitutional challenge to election results and helps ensure that elections are a first step to broader democratic governance.<sup>107</sup>

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<sup>102</sup> Ibid.

<sup>103</sup> Ibid.

<sup>104</sup> Barack Obama's Speech at Ghana's Parliament, Accra Ghana, at July, 11, 2009.

<sup>105</sup> How Democracies Transfer Power? *Supra* note, 95, P.6.

<sup>106</sup> Ibid.

<sup>107</sup> Ibid.

Stolen elections i.e. polls in which the regime hinders an (actual or perceived) opposition victory at the ballot box through blatant manipulation of the vote count or by annulling the electoral result is another basic ground to change election outcomes.<sup>108</sup> Violating the basic rules and principles will entail a basic ground to challenge election result.

## **2.6. Mechanisms of Expressing Public Grievances after Fraudulent Elections**

Fair elections have become an increasingly critical requirement for government to have legitimacy in the eyes of the international community and their own citizens. Electoral legitimacy and outcomes in turn, greatly affect the prospects for effective governance. Inter Parliamentary Union has declared that: candidate, party and campaign right carry responsibilities to the community. In particular, no candidate or political party shall engage in violence. Every candidate and political party competing in an election shall accept the out come of a free and fair election.<sup>109</sup> Save this declaration at the recent times public grievances are expressed beyond the legally prescribed ways of expression. One of the most powerful ways to express the dissent of the public against the government is colored revolutions. Others express their grievance through civil disobedience, street riot or other mechanisms. Accordingly, the next part of the thesis will discuss this issue.

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<sup>108</sup> Ibid.

<sup>109</sup> Free and Fair Elections *supra* note 18.

## Chapter Three

### Theoretical Overview of Colour Revolution

#### 3.1 Introduction

In recent times the so called emerging colored revolutions are becoming one way of addressing public grievances and changing the corrupted system and take as the best system to abort un democrats and substitute by pro- western leaders. After the cold war and balkanization of USSR, the post communist regime and some totalitarian countries are challenged by colored revolutions aftermath of elections. To challenge the electoral fraud the wave of colored revolutions has been taken place in Czechoslovakia, Serbia, Georgia, Ukraine and Kyrgyzstan in the past two decades. There are some signs of such attempt in those countries still tolerant for democratization and least developed countries such as Eastern Europe, Africa, South America and south East Asia.

Beyond the slogan “Fraudulent Election Result”, there are galvanizing factors and stake holders which play the game behind. Accordingly civil societies, western governments, Non Governmental Organizations, and Political elites are forces which catalyze the whole process behind the scene. In addition the structure of the government and the level of their western attachment determine the vulnerability and success of colour revolutions within certain country.

The sight of thousands of people demonstrating for clean elections and an end to corrupt post communist regimes led many observers to declare that the so-called colour revolutions had finally brought democracy to Serbia, Georgia, Ukraine, and Kyrgyzstan. But how successful have these electoral revolutions actually been? I analyze those cases of electoral revolutions worldwide since 1991, distinguishing between failed and successful electoral revolutions and the rationale behind their success and failure. To evaluate whether these subsequent revolutions brought the expected result, it is interesting to assess those issues beyond colored revolutions. Electoral revolutions are not effective as such at advancing democratization because they place too great an emphasis on elections themselves and do not address other fundamental obstacles to

democratization in hybrid and authoritarian regimes. Accordingly this chapter is devoted for the theoretical analysis of these basic issues and serves as a theoretical backup for the analysis part of the Ethiopian context.

### 3.2 Definition

A colour revolution is a term used to describe movements that conducted in several societies in the CIS (former USSR) and Balkan states during the past two decades. Some observers have called such events as “*revolutionary wave*”.<sup>110</sup> This terminology has become a popular shorthand for referring Velvet Revolution in Czechoslovakia, the “Bulldozer Revolution” in Serbia, the “Orange Revolution” in Ukraine, the “Rose Revolution” in Georgia” and “Tulip Revolution” in Kyrgyzstan. Some of these movements adopted a specific *colour* or *flower* as their symbol. Although only some of these revolutions actually had a color as its symbol, there is a consensus to use this term to express the events in these countries among regional specialists and local politicians.<sup>111</sup>

Participants in the colour revolutions have mostly used *nonviolent resistance* to protest against governments seen as corrupt and/or authoritarian, and to advocate *democracy*. The word “Revolution” in this context is not meant to imply any long term consequence of these events, but rather only to identify that the anti-regime focus forces were in fact successful in bring down the current regimes. Mark R. Beissinger has outlined the following elements to identify a certain event constitute a colour revolution (modular revolution)<sup>112</sup>

- ✓ The use of fraudulent/stolen elections as the occasion for massive mobilizations against pseudo-democratic regimes; fraudulent election serves as a catalyst for electoral protest. Massive mobilization upon the announcement of fraudulent

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<sup>110</sup> Jack A. Goldstone *Toward Fourth Generation of Revolutionary Theory*, Annual Review of Political Science Vol. 4, Department of Sociology, University of California, June 2001 P. 139-187.

<sup>111</sup> Joshua A. Tucker, *Enough! Electoral Fraud, Collective Action Problems, and Post Communist Coloured Revolutions*, Post-Communist Revolutions, Vol. 5, No.3, 2007, P. 536.

<sup>112</sup> Mark R.Beissinger, *Structure and Example in Modular Political Phenomena: the Diffusion of Bulldozer/Rose/Orange/Tulip Revolutions*, An Article on Perspectives on Politics, Vol. 5, No. 2 , June 2007, Princeton University P. 261.

electoral results and the use of nonviolent resistance are the manifestations of such event.

- ✓ Foreign support for the development of local democratic movements; the organization of radical youth movements using unconventional protest tactics prior to the election in order to undermine the regime's popularity and will to repress and to prepare for a final showdown; The opposition resorts to extra-Constitutional means including mass protests to defend the democratic cause. Both the incumbents and the oppositional candidates declare their authority.
- ✓ A united opposition established in part through foreign prodding; External diplomatic pressure and unusually large electoral monitoring; and massive mobilization and the use of nonviolent resistance tactics;
- ✓ Both sides avoid any significant use of violence

Though scholars in the area are divided regarding the main elements and clear definitions of colour revolution the emerging event has shown the above elements in common.

### **3.3. The Emergence of Colour Revolution**

#### **3.3.1. The Ancient Conception of Revolution**

The concept of revolution is not the recent emerging event, rather it has a long history and its tournament still continues in different parts of the world. The ancient crude form of the classical revolution type is just eroded and a new form of revolution is emerged.

Before the current perception of revolution is emerged, the classical revolution has the following features:<sup>113</sup>

First, there is a public discrediting of the old order, which leads to a quick change of the ruling body, the class or group of people (rich people, the people as a whole, communists, and mullahs) that participates politically and therefore rules. Radical change is the sole

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<sup>113</sup> Charles H. Fairbanks Jr. Revolution Reconsidered, *Journal of Democracy* Vol. 18, No. 1, January, 2007 John Hopkins University Press, P. 42.

target of the mobilized group. The group could not accept any result and the out-come should be the mobilized group desire.

Second, it involves a quick change of the ruling group in the name of, but also by means of, the whole community as represented by its majority. The change is not accepted unless it is absolute and quick through the mobilized group by the name of the whole community.

Third, the new rulers are specified and legitimized by a body of doctrine or ideology. The group who is in task of averting the existing norm and establishing the new order is duty bound to specify the organ that lead the country and give legitimacy even though sometimes the group who mobilized the movement and the group who take power differ like Ethiopian 1974 revolution though the driving forces are students the power is taken by the military.

Fourth, it installs a new system that is created by the state: The characteristic tendency of revolutions is to seize control of the state and to use the state to produce wider changes.

Fifth, in revolutions the new rulers and institutions take power by violence or by the threat of violence. The modern world does not support any type of violence except in certain extent in the Islamic world. But in classical revolution and ancient society violence is a best tool to heighten the drama of political change and to define vividly the enemies and friends during the revolution. It creates examples tragic, heroic, and villainous on the basis of which citizens remodel their characters. If we ask how passive victims of politics become the owners and operators of politics, these images and stories of revolutionary violence, heroism, and sacrifice must play a great role. Violence creates clear dividing lines between the past and the future. The current famous democracies such as Japan, Germany and Italy confronted with violence in their history.<sup>114</sup>

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<sup>114</sup> Ibid. P.44.

Though, revolution has confronted with oppositions from ancient scholars such as: Thucydides, David Hume, Hippolyte Taine, and François Guizot as revolution disrupts the respect for institutions and the obedience to law that derive from habit, it continues as a mechanism to bring down the incumbent system and to establish a new order. Not only this the modern form of revolution i.e. color revolution has gained strong support from the activists of democracy.<sup>115</sup>

### **3.3.2. The Current Perception of Revolution**

Definitions of revolution have changed as new events which are substantially different from the classic revolution have come forth on the stage of world history. Through; the 1980s, most writers on revolution focused on the “great (classical) revolutions” of England (1640), France (1789), Russia (1917), and China (1949) despite, the Cuban and Mexican great social revolutions i.e. rapid, basic transformations of a society's state and class structures accompanied and in part carried through by class-based revolts from below which is much different from the classic notion of revolution.<sup>116</sup>

Yet this definition ignored such matters as revolutionary ideologies, ethnic and religious bases for revolutionary mobilization, intra-clite conflicts, and the possibility of multi-class coalitions. This was intentional, for none of these were seen as central features of revolutions.<sup>117</sup>

Through the 1970s and 1980s, the dominant approach to revolutions was structural analysis, rooted in Marxist historical perspectives in which the action of capitalist competition on class and state structures produced class-based conflicts that transformed society.<sup>118</sup>

Some political analysts have called the third generation of revolutionary analysis to connote this development of revolutions and many others expanded on the old Marxist class-conflict approach to revolutions by turning attention to rural agrarian-class conflict,

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<sup>115</sup> Ibid.

<sup>116</sup> Toward Fourth Generation of Revolutionary Theory, *supra* note 110.

<sup>117</sup> Ibid.

<sup>118</sup> Ibid.

state conflicts with autonomous elites, and the impact of interstate military and economic competition on domestic political change. This work, in which revolution was attributed to a conjunction of multiple conflicts involving states, elites, and the lower classes, was a major improvement on simple descriptive generalizations.<sup>119</sup>

From the 1970s through the 1990s, however, the world saw a host of revolutions that challenged the class-based understanding of revolutions. In Iran and Nicaragua in 1979 and in the Philippines in 1986, multi-class coalitions toppled dictators who had long enjoyed strong support from the world's leading superpower, the United States. In Eastern Europe and the Soviet Union in 1989-1991, socialist and totalitarian societies that were supposed to be impervious to class conflict collapsed amid popular demonstrations and mass strikes. The Iranian Revolution and the Afghan Revolution of 1979 proudly proclaimed themselves as religious struggles, not based primarily on class issues and the host of anti-colonial and anti-dictatorial revolutions in the third World, ranging from Angola to Zaire, became so numerous and affected so many people that the parochial practice of defining revolutions in terms of a few cases in European history plus China became untenable.<sup>120</sup>

In addition, whereas the “great revolutions” had all led fairly directly to populist dictatorship and civil wars, a number of the more recent revolutions including that of the Philippines, the revolutionary struggle in South Africa, and several of the anti-communist revolutions of the Soviet Union and Eastern Europe seemed to offer a new model in

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<sup>119</sup> Ibid.

<sup>120</sup> Ibid, in response to these events, theories of revolution evolved in three directions. First, researchers sought to apply the structural theory of revolution to an increasingly diverse set of cases, well beyond the small number of “great” social revolutions. These included studies of guerrilla wars and popular mobilization in Latin America. Second, in part propelled by the above-noted works, which found in these new cases a powerful role for ideologies and diverse multi-class revolutionary coalitions, there emerged direct attacks on the “third generation” approach. Scholars called for greater attention to conscious agency, to the role of ideology and culture in shaping revolutionary mobilization and objectives, and to contingency in the course and outcome of revolutions. Third, analysts of both revolutions and social movements realized that many of the processes underlying revolutions—e.g. mass mobilization, ideological conflicts, confrontation with authorities—have been well studied in the analysis of social movements. Indeed, some of the more extensive and radical social movements that involved major changes to the distribution of power, such as the international movement for women's rights, the labor movement, and the US civil rights movement, were revolutionary in the risks taken by activists and the institutional restructurings produced by their efforts.

which the revolutionary collapse of the old regime was coupled with a relatively nonviolent transition to democracy.<sup>121</sup>

Thus, a new literature on “contentious politics” has developed that attempts to combine insights from the literature on social movements and revolutions to better understand both phenomena. As a result of these critiques, the simple state- and class-based conception of revolutions no longer seems adequate. A huge range of events now claim our attention as examples of revolution, ranging from the fascist, Nazi, and communist transformations of nations in the first part of this century to the collapses of communist regimes at its end; from the idealistic revolutions of America and France at the end of the eighteenth century to the chaotic revolutionary wars in Africa at the end of the twentieth. List literally hundreds of events as “revolutionary” in character.<sup>122</sup>

Nonetheless, these events still have a common set of elements at their core<sup>123</sup>:

Efforts to change the political regime that draw on a competing vision (or visions) of a just order, a notable degree of informal or formal mass mobilization, and efforts to force change through non-institutionalized actions such as mass demonstrations, protests, strikes, or violence. These elements can be combined to provide a broader and more contemporary definition of revolution.

Accordingly, revolution in to day’s perception is an effort to transform the political institutions and the justifications for political authority in a society, accompanied by formal or informal mass mobilization and non-institutionalized actions that undermine existing authorities.<sup>124</sup>

This definition is broad enough to encompass events ranging from the relatively peaceful revolutions that overthrew communist regimes to the violent Islamic revolution in Afghanistan. At the same time, this definition is strong enough to exclude coups, revolts,

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<sup>121</sup> Ibid.

<sup>122</sup> Ibid.

<sup>123</sup> Ibid.

<sup>124</sup> Ibid.

civil wars, and rebellions that make no effort to transform institutions or the justification for authority. If these events devised to bring institutional transformation and radical change it may have some element of revolutions. But most of the time these events took prolonged time and from its conception designed to abort oppression like the Ethiopian case during the dergue period rather than radical changes or institutional transformation, it is impossible to call them revolution. The 1970s and 1980s EPRDFs movement can be categorized under civil war rather than revolution though; there are some signals of institutional transformation. The above definition also excludes peaceful transitions to democracy through institutional arrangements such as plebiscites and free elections, as in Spain after Franco.<sup>125</sup>

Revolutions are distinguished sometimes by outcomes, sometimes by actors. Revolutions that transform economic and social structures as well as political institutions, such as the French Revolution of 1789, are called great revolutions; those that change only state institutions are called political revolutions. Revolutions that involve autonomous lower-class revolts are labeled social revolutions; whereas sweeping reforms carried out by elites who directly control mass mobilization are sometimes called elite revolutions or revolutions from above.<sup>126</sup>

Despite these differences, all of these revolutionary events have similar dynamics and characteristics. Revolutions do not always feature the same set of key actors, nor do they all unfold in the same way. Popular mobilization may be primarily urban (as in Iran and Eastern Europe), feature extensive peasant revolts, or involve organized guerrilla war.<sup>127</sup>

The main problem facing the new post socialist regimes was not spreading the revolution but rather building new national institutions that could cope with the emergent private, criminal, and bureaucratic entrepreneurs rushing to fill the vacuum of power.<sup>128</sup> Another typology rests on the guiding ideology of revolutionary movements. It distinguishes

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<sup>125</sup> Ibid.

<sup>126</sup> Ibid.

<sup>127</sup> Ibid.

<sup>128</sup> Ibid.

“liberal” or constitutional revolutions, which dominated the eighteenth and nineteenth centuries and seem to be reappearing with the revolutions in the Philippines and Eastern Europe; communist revolutions, which became prominent in the twentieth century; and Islamic revolutions, which appeared in the last quarter of the twentieth century.<sup>129</sup>

As this brief survey makes clear, a full understanding of revolutions must take account of the plasticity of elite and popular alignments, of the processes of revolutionary mobilization and leadership, and of the variable goals and outcomes of revolutionary actors and events. If a fourth-generation theory of revolutions is to emerge i.e. some scholars devise such phrase to express the revolutions comes after 1990 onwards and encompass the issue at hand, it must embrace these factors.<sup>130</sup>

In general the present perception of revolution does not have similar cause and effect relationship with the classical form of revolution though the emergence of the ancient type of revolution in some part of the world is still inevitable. Upheavals are pertinent in different parts of the world especially in the regime of disintegrated USSR, Asia, Eastern Europe and Africa. These upheavals are accompanied by foreign support, youth movements, elite’ mobilization, and massive mobilization, most of the time emerged aftermath of elections and as far as possible tries to end the tournament peacefully.<sup>131</sup>

To sum up the most recent perception of revolution is designed to bring democratization and establish liberal economic system and sponsored by different stake holders. They concentrated on building a decent, non-ideological “civil society” underneath the ruling communist regimes in which men could live more freely; focused on the importance of the market and the realization that socialism was a mistake and changes in the direction of democracy.<sup>132</sup> They explicitly rejected violence and a revolutionary path of political change, and they give emphasis for the realistic alternative through gradual and negotiated or “pacted” transition.

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<sup>129</sup> Ibid.

<sup>130</sup> Ibid.

<sup>131</sup> Ibid.

<sup>132</sup> Guillermo O’Donnell and Philippe C. Schmitter, *Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies* (Baltimore: Johns Hopkins University Press, 1991).

### **3.3.3. The Difference between Colour Revolution and Classical Revolution**

From the above analysis we can illicit the following diverging lines of the two:

First, classical revolution most of the time connote the existence of violence to achieve its goal, while color revolution is a mechanism devised to bring down the incumbent government with out violent actions. But we have to notice that rarely there is a possibility of the emergence of non violent success in classical revolutions and also violent actions in color revolutions.

Second, most of the time, colored revolutions occur in the aftermath of elections on the ground of fraudulent or stolen elections. On the other hand classic revolutions do not require the existence of elections rather it emphasizes on the social, cultural, economic and political necessities.

Third, in a fundamental sense, the color revolutions, like more traditional bourgeoisie revolutions before, did not mean a total negation of the old. Rather, they grew out of the escalation of ordinary politics within the previous regimes.<sup>133</sup>

Fourth, the involvement of foreign actors and civil societies as activists of change in color revolutions is another diverging line with classic revolution since it is energized by the domestic pressure than foreign actors.

Fifth, regarding mobilization in case of colored revolutions youth and elite mobilization catalyzed by civil society organizations are the manifestation, but in classic revolution the hidden class or social cast group is the main organ to play the game.

Sixth, the outcome of colored revolution is intended for democratization and liberalization, but in great revolutions absolute (radical) change in every direction is mandatory.

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<sup>133</sup> Georgi Derluguian, *the Colour Revolutions Betrayed*, Ponars Eurasia, Policy Memo No. 100, Northwestern University, May 2010, P. 4.

Finally, from the history of color revolution it emerged in those regimes which do not accept democracy and liberalized the market while in great revolution the precursor is the prevalent social, cultural, economic and political phenomena.

### **3.4. Colour Revolution versus Civil Disobedience**

The current perception of colour revolution has some elements of the old age concept of civil disobedience and it has also diverging lines which can not be compromised. Accordingly, to perceive the full meaning of colour revolution sketching the diverging lines of the two is indispensable. To do so we have to discuss the true nature of civil disobedience and elicit the distinction with colour revolution as we have seen the above.

#### **3.4.1. Definition of Civil Disobedience**

There are two ways of countering injustice. The first way is to smash the head of perpetrates of the injustice through direct involvement or action and the second method to get your own head smashed in the process.<sup>134</sup>

The first method envisages the pertinent situation of the word in which the organ that brought injustice to the victim shall get its punishment or damage through force or other mechanism which encounter from the victim. The tradition of the world designed in such way, everywhere wars are fought and millions of people are killed. Despite so many wars designed to bring justice, the consequence is not the progress of a world but its decline.

Though, it is devastating, the trend witnesses more and more seeds of war have not been destroyed but have become a thousand times more nourished and mighty. No country has ever become, or will ever become, happy through victory in war. A nation does not rise that way, it only falls further. In fact, what comes to it is defeat, not victory. And if, perchance, either our act or our purpose was ill-conceived, it brings disaster to both belligerents.<sup>135</sup>

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<sup>134</sup> Earth Day Network, *a Historical Lesson on Civil Disobedience*, available on the Internet at: [http://www.earthday.net/lessonplans/Resistance to civil government lesson.pdf](http://www.earthday.net/lessonplans/Resistance%20to%20civil%20government%20lesson.pdf), last visited November 29, 2010.P. 4.

<sup>135</sup> Ibid.

But through the other method of combating injustice, the Person who declares his disobedience alone suffers the consequences of his mistakes, and the other side is wholly spared. One who resorts to it does not have to break another's head; he may merely have his own head broken. He has to be prepared to die himself suffering all the pain.<sup>136</sup> Whatever the form may be non violent civil action or civil disobedience or Satyagraha as to Gandhi's terminology (Which he rendered in English as "truth force"); the scholar Gene Sharp provides the following definition: *A general technique of conducting protest, resistance, and intervention without physical force.*<sup>137</sup>

Henry Thoreau his side implies that: *civil disobedience means being the "minority" in the crowd. According to Thoreau, the government strips us from our own morals and conform our minds to see things the way that "the government sees it." One who is civil disobedient does not let the standing government "interrupt" their train of thought. A civil disobedient citizen resists any action enforced upon them that they do not see fit to comply with. These actions may vary from paying taxes to serving in times of war.*<sup>138</sup>

Thoreau at his famous quotation declares that the function of civil disobedient is being a counter friction to stop the machine through their life scarification. From this we can conclude that Civil disobedience is taking the liberal approach to all matters and then making an independent decision taking the risk independently.

Vinit Haksar on his article "The Right to Civil Disobedience" has pinpointed that:<sup>139</sup> The right to civil disobedience is a moral right and has important implications for the legal system. A just constitution ought to recognize the right to civil disobedience either explicitly in writing or at least in the way it is interpreted by judges and other state officials. The right to civil disobedience is not a panacea for all wrongs, but when properly interpreted it can help to make a legal system more just and stable. From time to time some segments of the population are marginalized; their

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<sup>136</sup> Ibid.

<sup>137</sup> Endowment of the United States Institute of Peace, *Non-violent Civic Action*, Study Guide Series on Peace and Conflict, 2009, P. 4.

<sup>138</sup> Historical Lesson on Civil Disobedience, *supra* note 134.

<sup>139</sup> Vinit Haksar, *The Right to Civil Disobedience*, Royal Society of Edinburgh and an Honorary Fellow School of Philosophy, Psychology and Language Sciences, University of Edinburgh, *Osgood Hall Law Journal* [Vol. 41, Nos. 2 & 3], 2003, P. 408-409.

conception of the good life, as well as their interests generally, gets overwhelmed by that of the dominant segment. Civil disobedience is one of the methods these groups have to redress this imbalance. There are, of course, other ways of empowering the weak that also exists which often supplement rather than supplant civil disobedience. From this we can say that civil disobedience is a way of addressing societal imbalances in addition to other legal rights.

### 3.4.2. Civil Disobedience and Its Advocates

As to most scholars agreed civil disobedience can be based on integrity or conscience and justice. Those persons like Gandhi who advocate for civil disobedience based on integrity or conscience denies that civil disobedience contrary to the law. They have strong moral conviction. When the law of the land conflicts with the highest law as revealed by their conscience they obey the later. Gandhi believes that individuals should only turn to civil disobedience if the cause is just and even then only when the injustice is so great that our conscience and self-respect do not permit us to tolerate it. "There are many unjust laws that a good citizen obeys so long as they do not hurt his self-respect or the moral being."<sup>140</sup>

On the other hand, civil disobedience based on justice is exercised when justice violated. Such type of confrontation is done by black Americans to oppose right violations; Vietnam War protesters were protesting the violations of the rights of the victims and Gandhi when he prohibited the access of higher class seat at the city bus of South Africa which were privileged to the white peoples of the country by the segregation policy of apartheid, though he bought the ticket at equal price.<sup>141</sup> Gandhi has strongly objected the policies of apartheid after he confronted with such fact in South African.<sup>142</sup>

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<sup>140</sup> Ibid P. 409-410.

<sup>141</sup> Ibid.

<sup>142</sup> Historical Lesson on Civil Disobedience, *supra* note 134, P. 4 "In opposing the atrocious laws of the Government of South Africa, it was this method that we adopted. We made it clear to the said Government that we would never bow to its outrageous laws. No clapping is possible without two hands to do it, and no quarrel without two persons to make it. Similarly, no State is possible without two entities (the rulers and the ruled). You are our sovereign, our Government, only so long as we consider ourselves your subjects. When we are not subjects, you are not the sovereign either. So long as it is your endeavor to control us with justice and love, we will let you do so. But if you wish to strike at us from behind, we cannot permit it. Whatever you do in other matters, you will have to ask our opinion about the laws that concern us. If you make laws to keep us suppressed in a wrongful manner and without taking us into confidence, these laws will merely adorn the statute-books. We will never obey them. Award us for it what punishment you like, we will put up with it. Send us to prison and we will live there as in a paradise. Ask us to mount the scaffold and we will do so laughing. Shower what sufferings you like upon us, we will calmly endure all

Dworkin provides the example of the African-Americans who broke the law in the civil rights movement: *They sat forbidden lunch counters seeking the privilege of eating greasy hamburgers next to people who hated them. They acted to oppose and reverse a program they regard as unjust.*<sup>143</sup> This shows the racist policy of white Americans who strongly hate blacks and do not want see blacks at their meal counters. In opposition to this segregation blacks arrange their lunch program at the forbidden place for blacks.

The above facts show civil disobedience against injustice other than morality. Even though, Gandhi advocated for civil disobedience on the basis of integrity or conscience, he himself fostered civil disobedience in his literature and practice on the ground of injustice and he is one of the famous civil disobedience advocate at the individual and mass civil disobedience level.<sup>144</sup>

Gandhi in addition to being an advocate of civil disobedience, he also testifies that Jesus Christ is the most active known resister perhaps in history. This was no violence par excellence.<sup>145</sup> Jesus was a peace maker who every time broke the laws that oppressed people and kept them slaves of injustice. Strongly opposed those oppressions conducted on the guise of this law of the earth. He strongly opposed and rejected those unjust laws of the earth and tries to establish his norm in conformity with ten commandment received by Moses from God. Jesus was not just provocative; his actions were illegal, civilly disobedient and divinely obedient.<sup>146</sup>

Jesus at his earth life, all the time confronts with the powers of his day symbolized in the oppressive cult of the temple system. His civil disobedience in the temple provoked the ruling class to arrest Jesus. This is done because of the frustration of his followers among the poor in the countryside would like to do the same thing. As a result he was

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and not hurt a hair of your body. We will gladly die and will not so much as touch you. But so long as there is yet life in these our bone, we will never comply with your arbitrary laws”.

<sup>143</sup> Ibid. P.411.

<sup>144</sup> The Right to Civil Disobedience *supra* notes 139. P. 414 Gandhi divides civil disobedience in to two, i.e. mass and individual civil disobedience Mass civil disobedience involves many people acting together and is much more risky and prone to violence and other evils, whereas individual civil disobedience is easier to confine to those who possess the requisite moral authority.

<sup>145</sup> Merton Thomas, *Gandhi on non violence*, New Directions, New York, 1964, P. 40.

<sup>146</sup> Ibid.

imprisoned, tried, interrogated, tortured and publicly executed by the ruling authorities. Not only this, his civil disobedience continues after he rose from dead against imperial/religious authorities. His resurrection was non violent and illegal; indeed totally outside of the law and its “principalities and powers” since he were divinely obedient and at that time religious and materialist leaders assume him as law breaker and do not accept him as the son of GOD and messenger and do not want acknowledge in such way.<sup>147</sup>

The moment which Jesus turned and began the campaign to Jerusalem, where in the spirit of love and truth he would confront the temple and all it represented, is the critical time in life of Jesus as Luke mentioned in his Gospel. *As the time drew near for him to be taken up to heaven, Jesus resolutely took the road for Jerusalem and messengers ahead of them.* Jesus was deliberate; though his disciples tried their best to take him out of Jerusalem he insists on going to Jerusalem conscious of all implications and consequences.<sup>148</sup> He would speak the truth dramatically, symbolically at the center of the culture of death. He would turn over the tables of that culture, if necessary, but he would speak. He would insist on truth, obedient to God’s will and he make himself available to all, willing to be rejected, willing to risk his life, but he would go and speak up for what was right.<sup>149</sup>

He is considered as a walking force of non violence and the living sprit of the reign of non violence walking in the kingdom of violence. As a force of non violence, he would confront all evils taken by authorities and overcome them through suffering love.<sup>150</sup>

From this analysis we can conclude that, the concept of civil disobedience is well practiced before and after death of Jesus. Gandhi, Martin Luther King and others open up Jesus’ way again in the 20<sup>th</sup> century, enlightening and revealing the truth’s of Jesus

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<sup>147</sup> Ibid.

<sup>148</sup> Holy Bible, *Luke 9:51*.

<sup>149</sup> Myers Ched, *Binding the Strong Man*, Mary Knoll: Orbis Books, 1988, P. 436-437.

<sup>150</sup> Ibid.

journey in the new and deeper fashion for many people.<sup>151</sup> Accordingly, these are very great personalities who advocate for civil disobedience in their holy life.

### 3.4.3. The Status of Civil Disobedience

Regarding the status of the right of civil disobedience some arguers argue that the issue is beyond moral right. As to them a just constitution shall recognize explicitly in writing or at least in a way it is interpreted by judges and other state officials. This right is not a panacea for all wrongs, but when interpreted properly it can help to make a legal system more just and stable. From time to time certain groups of the society are marginalized and overwhelmed by the dominant segment. The right is one of the methods these groups have to redress this imbalance. John Rowels contends that civil disobedience is the final device to maintain the stability of a just constitution.<sup>152</sup>

Gandhi also affirmed that civil disobedience is the purest type of constitutional agitation. Accordingly, Gandhi who advocate for civil disobedience based on integrity or conscience denies that civil disobedience contrary to the law. They have strong moral conviction. When the law of the land conflicts with the highest law as revealed by their conscience they obey the later.<sup>153</sup>

Even though, the above two persons foster the right to civil disobedience even in liberal democracies, others objected this right since, there are mechanisms to express their grievances which can make or influence the legal system in such democracies. Joseph Razz has asserted that civil disobedience will serve the illiberal societies since liberal societies have other alternatives with out resorting to such measure.<sup>154</sup>

However, Razz does admit that even in liberal democracies where different alternatives are available, there may be a case for civil disobedience where it is the morally right thing to do since it is part of freedom of expression. Thus, Razz grants that even liberal

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<sup>151</sup> John Dear, *The Sacrament of Civil Disobedience*, available on the Internet at: [http://www.father\\_john\\_dear.org/books/sacrament-of-civil.html](http://www.father_john_dear.org/books/sacrament-of-civil.html), last visited November 29, 2010, Published by Fortkamp Publishers, 1994.P. 2.

<sup>152</sup> The Right to Civil Disobedience *supra* notes 139, P.409.

<sup>153</sup> Ibid.

<sup>154</sup> Ibid. P.413.

societies may contain any number of bad and iniquitous laws, but he is anxious to deny that there is any right to civil disobedience for such a right extends tolerance to people to indulge in civil disobedience even when it is wrong to do so. Then he recognizes the right with reasonable limitation.<sup>155</sup>

-His view is that civil disobedience in liberal societies can be rationally supported by those who approve of it, but it has no claims to toleration by those, such as the authorities, who do not support its aims. Razz is against such tolerance of civil disobedience in liberal societies, for there is participation in the making of decisions and legal ways of trying to persuade others to accept one's objectives. As to him, people have a right to civil disobedience implies, firstly, that even if they are punished, they have a claim not to be prevented from breaking the law. Secondly, they have a claim not to be punished or to have a reduced punishment. Of course, such claims have to be balanced against other considerations, such as the need for deterrence.<sup>156</sup>

Concerning the extent of toleration of this right scholars argue that, the situation shall determine the measure taken by the government. If the mob consists of murder and other grave acts, it shall be deterred by the concerned body if necessary through taking forceful measures. If the act only involves the break of laws which could not bring serious and irreversible harm, people can be free to choose to obey the law or to pay the penalty. The most consensual point among scholars of the area regarding its extent the right to civil disobedience extends to cases where we are reasonably wrong but no further.<sup>157</sup>

From this we can generalize that the right to civil disobedience has strong support among those advocates of the right. Taking such assertion duly, their descendents advocate for constitutional recognition save certain limitation and the widening of the extent of toleration. But the current democratic system of governance could not tolerate those extreme cases of civil disobedience. In the modern societies moral values which offend the fundamental human rights and liberties shall be discouraged and the legal

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<sup>155</sup> Ibid.

<sup>156</sup> Ibid.

<sup>157</sup> Ibid. P.421.

consequence of such type of practices are assumed as crimes committed in the violation of international and democratic governments domestic law.

#### **3.4.4 The Difference between Colour Revolution and Civil Disobedience**

From the above analysis we can solicit the following points. The conception of scholars on the right of civil disobedience caused by injustice much compatible with the concept of colour revolution. But civil disobedience as a result of moral ground does not fit with the concept of colour revolution. Accordingly, colored revolutions are similar with civil disobedience, since it is non violent, peaceful, and against unjust action. But there are also diverging lines especially when we take civil disobedience on moral ground since it has strong moral conviction, and colored revolutions always took place based on injustice caused by mal practices committed on election.

The other diverging line is caused by the sole fact of colour revolution is occurred aftermath of elections against fraudulent/stolen elections, but civil disobedience doesn't require the existence of fraudulent/stolen elections.

Regarding the conduct of the mob civil disobedience can be done at the individual or mass basis, but colour revolution as witnessed the recent experiences necessarily requires mass mobilization/riot.

Concerning motivators/sponsors and active participants incase of colour revolution foreign actors, elites and civil society organizations play a great role to mob the youth and opposition groups while civil disobedient participants are those minorities or segmented groups or supporters of certain idol lead by their leader at the individual or mass basis can express their grievance.

The declaration of colour revolution is done for the sake of averting the existing system and to establish a democratic, liberal and free market system to those who do not follow this system still now. But civil disobedience is designed to avoid the dominance of certain group, ideology or culture.

To sum up: these two concepts have common identities they manifest during their conduct. But, they have also diverging lines among them which differentiate as to its cause, rational, conduct and consequence as we analyzed above.

### **3.5. Causes of Colour Revolutions**

-In transition democracies the orderly transition of office and power which is accustomed by established democracies from one political party to another cannot be taken for granted. Rather, it requires a well established framework of law and widespread confidence based on practical experience that elections are really fair. In new or evolving democracies, especially those beset by deep cultural divisions, the lack of experience or trust in the electoral process is inevitably a challenge and a means of disturbance and disorder. Regimes established by coup d'état (peaceful or otherwise), emerged from dictatorship, and post communist regimes may seek democratic legitimacy in an election, only to defy electoral defeat by force of arms. In such cases, rather than concede defeat, party leaders may denounce the result, claiming fraudulent ballots, stolen elections, censorship, and violent intimidation and proceed to take non violent actions against the organ which misused its power.<sup>158</sup>

Beyond this, they may urge their supporters to resist, fight, and die for their right and country to abort the incumbent regime. As a result, in recent times for a nation attempting to build and consolidate democratic institutions, the challenge facing rival leaders is to accept defeat as a bridge through proposing different mal-practices of the conduct of elections and lack of will to think beyond personal ambition and party interest<sup>159</sup>.

The causes of colour revolutions do not go far from this assumption. In recent years, scholarship on the causes of colour revolutions has sprawled across topics and disciplines like an amoeba, stretching in various directions in response to diverse stimuli. But we can subsume into the following main actors of coloured revolution.<sup>160</sup>

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<sup>158</sup> US Department of State/ Bureau of International Information Programs, *More Than Elections, How Democracies Transfer Power*, Vol. 15 No.1, January 2010, P. 15.

<sup>159</sup> Ibid.

<sup>160</sup> Toward Fourth Generation of Revolutionary Theory, *supra* note 110.

In line with the above argument, different scholars have outlined those causes /factors/ of coloured revolutions in the following manner though their analysis and outlook differ in certain extent. For the sake of convenience and manageability, I summarized the causes of colour revolutions as pinpointed by different scholars in the following manner.

### **3.5.1. Post Cold War World of East Vs West in Europe**

This categorical analysis of scholars fosters that the main sources of the current east versus west hostilities is traced back to the cold war period to affirm super powers authority to the diffusion of their ideology and scramble of the world for the success of their economic and political interests.

The reduction of cold war tensions between the United States and the Soviet Union under Gorbachev diverted and provided an opening for dissidents, workers, and urban protestors to test the resolve of communist regimes and the westerners to divert their agenda in to democracy, free market economy and peace full transition of power in the regime. To respond the democratic demand of the citizen and the west, the east world had established pseudo democracy in the regime which can not qualify elements of democracy and free and fair elections. Without any real ideological alternative after the end of communism, these post-Soviet regimes maintained a façade of procedural democracy in untidy contradiction to their actual sultanistic practices.<sup>161</sup>

Though the authorities did not need it, ideological influences have spread across boundaries, with both the example and the content of revolutionary movements in one nation influencing others. This spread of democracy is done through internal forces which need the real change of their country in to democracy and foreign actors which need to diffuse their system and dominate the world beyond their boarder. Especially popular in Russia is this East-West story, which places these revolutions squarely in the context of post-cold war geopolitical struggles for dominance between Russia and the West, particularly in areas that had long been considered in the Soviet sphere of influence. This approach stresses the lure of the West for members of the opposition

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<sup>161</sup> The Colour Revolutions Betrayed, *supra* note 133.

fearful that their countries' current leadership could be leading the country down a path of permanent exclusion from "Europe" generally and European institutions such as the EU more specifically.<sup>162</sup>

This frustration is manifested in different occasions. For example in Georgia, a bodyguard of one of the opposition leaders reflected on the success of the Rose Revolution by noting that: *we have done it without bloodshed. This is the first time such a thing has happened in Georgia. It means that finally we deserve our place in Europe.*

Another scholar notes that in Ukraine, inspired by the transformation of their country's western neighbors from Soviet satellites to European Union members, the young generation supported Yushchenko's vision of a democratic and 'European' Ukraine. These signify that after the cold war the intendment to the accession of European Union has substantially increased. To achieve this goal internal reformation was mandatory.<sup>163</sup>

Although the international environment can affect the risks of coloured revolution in manifold ways, the precise impact of those effects, as well as the overall likelihood of colour revolution is determined primarily by the internal relationships among state authorities, various elites, and various popular groups (peasants, workers, and regional or ethnic or religious minorities) and strong elite mobilization of the reformist group.<sup>164</sup>

Generally, the east versus west complexes has one factor for the emergence of colour revolutions in different parts of the world especially the post communist regime.

### **3.5.2. Modular Revolution (Diffusion)**

Currently, theorists treat colour revolutions as emergent phenomena, and theorize by focusing on the rationales of such fast spread of the mob through out the post communist regime. These emerging phenomena, expressed as modular revolution to describe spread

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<sup>162</sup>Enough! *Supra* note 111.

<sup>163</sup> Ibid.

<sup>164</sup> Toward Fourth Generation of Revolutionary Theory, *supra* note 110.

of collective action across groups i.e. action that is based on significant part on the prior successful example of others.<sup>165</sup>

The color revolutions of Yugoslavia (2000) Georgia (2003), Ukraine (2004), and Kyrgyzstan (2005) promised these countries substantive democratization, which was supposed to end the immoral practices of post-Soviet imitation democracies, foster market-driven prosperity, and open the way into the prestigious club of European nations through diffusion.<sup>166</sup>

-The best common element to these revolutions was an overwhelming demand for political change; meaningful, if unfair, elections which the opposition could win and, in case of rigging, present credible evidence of fraud/stolen election and thus its genuine victory to society.<sup>167</sup> In a number of cases of Colour Revolutions claims to fraud/stolen election in parliamentary elections were used to bring change on the top of the state.<sup>168</sup><sup>169</sup><sup>170</sup>

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<sup>165</sup>Ibid. P.1.

<sup>166</sup> The Color Revolutions Betrayed, *supra* note 133, P.1.

<sup>167</sup> Vitali Silitski, *a Year after the Colour Revolutions*, Preemptive Authoritarianism and Challenges for Democratization in the Former USSR Ponars, Policy Memo No. 376 Stanford University, Dec. 2005 P.58.

<sup>168</sup> Vicken Cheterian, *Coloured Revolutions: Democratization, State-Building, Permanent Revolution?* The 'Coloured' Revolutions, Wednesday 30 April 2008, King's College, Cambridge, P.10.

<sup>169</sup>Enough! *Supra* note 111, P. 1-2 Joshua A. Tucker had defined the term electoral fraud as: "an intendment to refer to situations in which electoral results were knowingly tampered with in an effort to advantage one candidate (or set of candidates) over another". One can conceive of two different types of fraud: minor electoral fraud, which affects elections in which results were tampered with but in which the tampering is perceived to have had little effect on the overall outcome of the election, or major electoral fraud, which affects elections in which electoral fraud is suspected to have influenced the overall outcome. In the context of the colored revolutions, this would imply a belief that either a different candidate would have been elected president or a different party would have controlled the parliament if the fraud had not occurred; and indeed, all four colored revolutions featured instances of what I have labeled major electoral fraud. The ideas contained in the remainder of this article focus on circumstances following this kind of major electoral fraud. Put another way, the arguments that follow assume that if the fraud is corrected, there is a strong chance that a different group of political forces would come to power.

<sup>170</sup> Mark R. Thompson and Philipp Kuntz, *More than Just the Final Straw: Stolen Elections as Revolutionary Triggers*, Working paper September, 2005, P. 3, "Stolen elections" can be defined as: "polls in which the regime hinders an (actual or perceived) opposition victory at the ballot box through blatant manipulation of the vote count or by annulling the electoral result itself". The basis for stolen are "stunning" elections, in which the regime is surprised by the defeat it suffers at the hands of the opposition.<sup>6</sup> A stolen election is not just the final straw that breaks the autocrat's back, merely adding enough additional "weight" to the burden already shouldered by the regime to prompt collapse. Rather, it constitutes a powerful transformatory event which fundamentally reshapes political contestation. Opposition participation in an election held by the regime is initially a test of its formal democratic

The colored revolutions are like that everyone sees something different in looking at the events. They see the surface patterns of elections being manipulated and leading to protests; and the shared iconography of the protestors, wrapping themselves in colored scarves, and waving Georgian flags in Kyiv, or sending Georgian and Ukrainian youth groups to Bishkek to train young voters and protestors. But this use of coloured symbols and flags, and the rough similarities in the way events played out, are not sufficient to explain what actually happened in Georgia, in Ukraine, or in Kyrgyzstan. Nor can they explain or predict what is likely to happen in other countries in the region, rather to mean that it is one significant contributing factor for the spread of colour revolutions.<sup>171</sup>

Diffusion connotes exchange of ideas, skills, and people within the post communist region. Indeed, each successful revolution generated new cadres of revolutionaries to spread ideas and train opposition movements under other post communist authoritarian regimes beginning in Romania and Slovakia and spreading to Serbia, and from Serbia to Georgia, and then to Ukraine. It is striking that activists frequently and intentionally linked their revolutions to similar events in the region.<sup>172</sup> Elite co-optation and defection have played an important role among early risers in the spread of modular democratic revolution. In the Serbian, Georgian, Ukrainian, and Kyrgyz cases, defections from the police and the armed forces ultimately made repression impossible and were the most immediate causes of revolutionary success in each of these cases. In the Orange Revolution, even President Kuchma ultimately defected from Yanukovych's coalition, leaving his chosen successor with few mechanisms by which to suppress rebellion.<sup>173</sup>

Accordingly, Exchange of ideas, skills and people with in the regime, elite mobilization, mass motivations for participation in Protest against unpopular regime and the diffusion

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credentials *within* existing political institutions. By denying the opposition its victory at the ballot box through outright manipulation, the regime transforms elections into a powerful trigger for a popular uprising *against* the political status quo an authoritarian regime trying to reverse the outcome of an election that has already been lost (de facto or at least in the perception of most people concerned).

<sup>171</sup> Keynote Speech, *Beyond the Colored Revolutions*, Central Eurasia Studies Society, 6th Annual Conference Friday, September 30, 2005, Boston University, P. 3.

<sup>172</sup> Lucan Way, the Real Causes of the Colour revolutions, *Journal of Democracy*, Volume 19, Number 3 July 2008, P. 57.

<sup>173</sup> *Ibid.*

of the trend of a certain country invite other countries change motivators to schedule such type of uprisings in their own countries.

### **3.5.3. Unconsolidated Authoritarian Regimes**

Some scholars of colour revolution pointed to the structural vulnerabilities of regimes as the basic causes of revolutions. These, analysts of both colour revolutions and social movements realized that many of the processes underlying revolutions e.g. mass mobilization, ideological conflicts, confrontation with authorities are changed in to colour revolutions and be successful if the system is weak or unconsolidated.<sup>174</sup>

Unconsolidated authoritarian regime as a result of the costs of war or economic shifts can undermine elite and popular loyalty to a government and put state finances in disarray. Popular misery and widespread grievances tend to produce pessimism, passive resistance, and depression and leads the public to social/colour revolution as the last resort unless the circumstances of states and elites encourage actors to envision a realistic possibility of change. Unconsolidated powers could not resist the forces which are powerful economically, organizationally and strong backup from the public.

As a result, the states financial and cultural resources to carry out the tasks they set for themselves and are expected to carry out by elites and popular groups; whether elites are largely united or deeply divided or polarized; and whether opposition elites link up with protest by popular groups are key issues which can decide the fate of the unconsolidated authoritarian regime.<sup>175</sup>

The above factors also dependent upon the following two factors: 1) the strength of a country's ties to the West; and 2) the strength of the incumbent regime's autocratic party or state. In a nutshell, post communist autocrats have been more likely to hold onto power when their countries have weaker ties to the West and when they have access to at least one of the following sources of authoritarian organizational power: a single, highly institutionalized ruling party; a strong coercive apparatus that has won a major violent

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<sup>174</sup>Toward Fourth Generation of Revolutionary Theory, *supra* note 110.

<sup>175</sup>Ibid.

conflict; or state discretionary control over the economy, through either de jure state control or the capture of major mineral wealth, such as oil or gas.<sup>176</sup>

Strong linkage or dense economic, political, and social ties with the United States and Western Europe and an old regime that left a sizeable legitimate space for political opposition, civil society, and independent media and in which incumbents did not possess total control (either vertically or horizontally) over the institutions of the state create overwhelming obstacles to authoritarian consolidation by increasing the extent to which Western powers are willing to invest in regime change.<sup>177</sup>

Authoritarian stability has been shaped by the extent to which state leaders have discretionary control over wealth in society whether through direct state control over the economy or through reliance on energy revenues that is relatively easy for even weak autocrats to capture. A leader with complete control over wealth can bribe or withhold resources from opponents, in extreme cases even denying opposition activists any stable livelihood. Decentralization of economic power and influence that creates a domestic financial base for the opposition and independent electronic media; and complacency of incumbents who discounted the threat to their own regimes due to the geographic and/or cultural remoteness of their country are factors which weaken the regime.<sup>178</sup> Therefore the strength of the link with the west and economic potential are the two decisive factors for a certain government to lose its power or to resist colour revolutions. These are some of the causes for coloured revolutions as elucidated by different scholars.

### **3.6. Election Fraud/Stolen Elections and Coloured Revolutions**

Election fraud/Stolen elections and colour revolutions have an intimate relationship i.e. the existence of colour revolutions most of the time presuppose a fraudulent/stolen elections as we witnessed from the past experience of countries which confront with colour revolutions. Major electoral fraud/stolen election has substantial role to resolve

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<sup>176</sup> The Real Causes of the Color Revolutions, *supra* note, 172.

<sup>177</sup> A Year after the Colour Revolutions, *supra* note 167.

<sup>178</sup> Ibid.

Collective action problem after the declaration of fraudulent/stolen elections.<sup>179</sup> One basic element in such situation is the entire country is experiencing the same act of abuse and simultaneously major electoral fraud provides an obvious focal point for action. People no longer have to choose whether to react alone. Especially as crowds grow, individuals know that they will only be one of many, many people protesting, and thus much less likely to be punished individually. But this does not mean that there is no possibility of punishment, rather major electoral fraud presents an opportunity to act on grievances against the current regime without a high degree of certainty that punishment if it is forthcoming will be felt by you individually. It is also very important by upgrading the possibility of success.

As a result the success of collective action frame work in case of colour revolutions presuppose fraud/stolen elections as a triggering force to mobilize the public and to attain the desired goal and to solve collective action frame work problem.

Joshua A. Tucker had highlighted for about five particularly important implications of thinking about the colored revolutions through the lens of major electoral fraud as a means of solving collective action problems in this regard.<sup>180</sup>

First, this framework clearly warns against overstating the likely reservoir of public support for the new regimes that emerged after the colored revolutions. Forth coming should very cautious from over stating their promises for the sake of mobilizing the

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<sup>179</sup> Enough! Supra note 111, P. 540. Collective action frame work is a concept in which a group will benefit from cooperation but the lack of individual incentives to engage in the actions necessary to achieve this cooperation prevents the goal from being attained. Each individual faces cost/ benefit if he/she participates in collective action frame work to achieve the group goal. He/she benefit if the group goal is being attained and a belief about the likelihood of the group successfully attained that goal. If the individual believe that, the cost of his participation outweighs the benefits to be gained from group goal, and then he will choose not to participate. And if enough people do not choose their participation, though the threshold varies across different collective action frame work, then the goal will not achieve. By the same token, if individuals value the group goal but believe a very low success, they will choose not participate and the goal will fail. Then the success of collective action frame work depends on the cost of participation, the benefits of the goal being sought and beliefs about the likelihood that the goal can be achieved. The concept of collective action frame work to be well practiced the system of the government should be framed in a way which accommodate the interests of its citizens. Citizens could not challenge the corrupted system and express their grievances unless the play field is leveled. In such regimes the cost of collective action frame work outweighs the benefit from the outcome.

<sup>180</sup> Ibid. P.542.

public for the time being. The facts in some countries which conducted colour revolutions especially in Ukraine the forth coming state condemned as they breach their promises after they come to power since they promised much which can not implemented by their country capacity. This will erode the success of the succeeding collective action frame works since the public will be passive to involve in such riots.

Second, we should be cautious about assuming that whenever pro-democracy forces have overthrown illiberal regimes in post-communist countries, necessarily pro-Western policies will follow. If the revolution is in large part a reaction on the part of the mass public to a domestic problem (grievances against an insufficiently restrained state), then attaching excessive geo-strategic significance to the change in regime may not be warranted. If the triggering factor is the domestic unrestrained system, the next agenda should be to restrain this system and bring change gradually. But the misperception of the total change of the whole system after overthrow the incumbent government, inevitably leads the public to dissatisfaction and to come to bad generalization not to involve in the next similar events. Therefore the public should be delicate that pro-democracy forces not always the engines of pro- western policies. This is witnessed from the past experiences of post communist regime of colored revolutions, since they do not transplant western policies as expect and promised during the mob/riot.

The third implication of applying the collective action framework to these revolutions is that it suggests that so-called “delegate democracies” or “competitive authoritarian” states may be somewhat more fragile than originally thought. The events in these four countries demonstrate that there are inherent risks in trying to falsify election results. As witnessed from the past experience colour revolutions are the outcomes of fraudulent/stolen elections.

The consequence of coloured revolutions on the other hand is regime change/ overthrow of the incumbent government. Therefore conducting fake elections in this regime is just claiming high risk of danger. There are of course many examples of authoritarian or quasi-authoritarian countries that have carried out “fake” elections without losing power.