

# THE ROLE OF FACT-FINDING IN PREVENTIVE DIPLOMACY

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## Introduction

Since the early nineties a variety of international organizations have been concerned with the Latvian and Estonian conflicts over citizenship. Both cases have been taken as a laboratory for preventive diplomacy, in particular, since the Swedish Minister for Foreign Affairs, Margaretha af Ugglas, got a mandate from the Conference on Security and Cooperation in Europe (CSCE) to pursue a strategy of preventive diplomacy in order to prevent Europe from having another war like the one in Yugoslavia. Thus the development of both conflicts can serve as examples of how international interference may contribute to conflict resolution. All of the international organizations have used fact-finding as their basic tool and sent missions on-site. The term fact-finding is defined as an investigation that helps international organizations fulfill their duties, in particular in the arena of conflict-resolution. The procedure is ruled by certain standards, above all transparency to the parties involved. The aim is to obtain detailed knowledge about a conflict in order to produce a statement that is recognized as objective. A statement becomes a fact when it cannot be easily disputed and when it is uncontradicted by other statements of similar missions. This facilitates the willingness of actors in a conflict to change certain aspects of behavior, attitudes and aims in response to a mission's recommendation.<sup>1</sup>

Can fact-finding be regarded as an effective contribution to peace? Experiences with its application in Latvia and Estonia can help to answer the question. After referring to the conflict background this article evaluates fact-finding reports regarding established facts and the results. It then focuses on possible explanations for the mission's limited results in order to draw conclusions on improving the effectiveness of fact-finding missions.

## Conflict Background

When Estonia and Latvia had regained their independence as sovereign states, those inhabitants who (or whose ancestors) came from other parts of the former Soviet Union between 1940 and 1991 were excluded from initial citizenship. Thus, between 30 and 40% of permanent residents in Estonia and Latvia have been practically excluded from political life. In some towns they form the majority. There are isolated cases where they make up 95% of the population.

Russia has offered to these residents the option of claiming Russian citizenship. Residents who take this option become avowedly foreigners in Latvia and Estonia. Even though the majority did not opt for Russian citizenship, they are nevertheless regarded as foreigners and treated as stateless people "with special status." In 1995, non-citizens in Latvia were provided with Soviet passports, marking them as citizens of a state that ceased to exist in 1991. Estonian and Latvian authorities have made concessions since 1993 and 1994, whereby non-citizens can apply for naturalization after having passed a national language and history test. Most non-citizens cannot meet the requirements for various reasons. Thus, disputes continue to exist and the situation has remained potentially explosive in both countries.

The conflict over citizenship has two dimensions: human rights and security. The status of inhabitants excluded from citizenship is accompanied by severe discrimination in political and societal life. Above all, they lack the right to vote and to be elected. This seems to be a simple question of *human rights*. Estonia and Latvia, however, appeal to history and consider the "Russians" to be illegal immigrants who were brought in by the Soviet occupier against international law. They are in general presumed to act out of loyalty to Russia because of their origin. Latvia and Estonia perceive "the Russians" inside and outside the country to be a threat to *national security*.

The decision to protect themselves against this threat through legislation on citizenship is perceived strictly as an internal matter of Latvia and Estonia as sovereign states, that take the right to decide who is a citizen and who is not, without depending on external advice according to international law. The task of getting this view accepted, however, raises several problems. Both countries find themselves confronted with accusations that the denial of citizenship is a violation of *human rights*. And they both react to the accusations by denouncing them as a Russian campaign against Latvia and Estonia, as a misuse of the human-rights idea, and as definitive proof of the Russian threat to Latvian and Estonian *security*.

Indeed, Russia, which has raised the question appealing to the CSCE since 1992, is one of the parties to the conflict. It cannot be interested in a re-immigration of the "Russians abroad" and in providing them with housing, jobs and social security. Russia further is strongly suspected of instrumentalizing the conflict for its own aims, playing the role of a Great Power in the Baltic Region by purporting to be the protector of those people who are excluded as Russians and who are potentially Russian citizens.

The more Russia plays this role, the more the "protected inhabitants" become identified as being dangerous instruments of a foreign power. These inhabitants do not form a homogeneous group. Indeed, many of them do have the feeling that their demands are quite well represented by Russia. Others insist on being regarded as Latvians and Estonians, although they often do not speak the national language, and are not enthusiastic about the Russian protection but, on the contrary, feel threatened by it. The exclusion from initial citizenship as well as procedures for naturalization, however, have resulted in indignation even among the latter. Who else but those forces in Russia who really may become a threat to Estonia's and Latvia's independence can make use of this indignation? Thus, *security-related reasons for the denial of citizenship concerning the "Russian speaking community" are self-reinforcing*.

Estonia and Latvia have plenty of reasons to be afraid of Russia. They are worried about their neighbor, Great Power player, with relatively strong impact on the international system, who might induce Western States to diminish attention to Latvian and Estonian concerns. Even after the withdrawal of former Soviet troops to Russia was completed in 1994, the rivals continued to use the issues of "Russian troops" and "present administrative borders" on the one side and the issues of "citizenship" and "expansion of NATO" on the other as bargaining chips. Thus, political tensions were stimulated again and again. This, however, stands against the *security* interests of Western States who regard the development of an atmosphere of cooperation between Russia and the Baltic States as an important element of stability in OSCE-Europe. Therefore, Western States urged Russia to withdraw the troops from the Baltic States and urge the Baltic States to find a solution that will, in future, integrate those people who now are excluded from citizenship.

However, even the credibility of Western States has been questioned on two counts. First, Estonians and Latvians point to procedures used in the West, and particularly in the "fortress of West Europe" to build a wall against immigrants. Second, Western States are criticized by non-citizens for tolerating discrimination in Estonia and Latvia instead of promoting human rights.

Thus, the worth of human rights norms has come under pressure. Trust in their unreserved validity, however, functions as a pillar in *European security architecture*, even if the pillar is thin. Whatever controversial positions the conflicted parties and the international environment might hold, all actors know that, in the interests of all, the consent that has been achieved during the CSCE process must not be allowed to break apart. However, the mere suspicion that Estonia and Latvia might perhaps violate human rights seems to be a stab in the back to the self-image of both states. Perceiving themselves as victims of violence, they find themselves marked as disturbers of the peace. In their view the citizenship policy is just a means of defending themselves against a Russia that holds as its outpost on the Estonian and Latvian territories individuals who were infiltrated into the Baltic States before the recognition of independence.

A vicious circle arises here. There has been little previous experience in maintaining a balanced relationship between human rights and security. This time, the international community simply procrastinated. It is really remarkable that all the actors involved have directed attention to the priority of preventing direct violence and making use of international organizations and NGOs to act as facilitators for this purpose.

The United Nations used their moral weight in human rights issues, the Council of Europe used its political clout to decide about the application of Estonia and Latvia for membership, the European Bank for Reconstruction and Development used financial incentives and the CSCE put in process the various consultation mechanisms. NGOs like the Fédération Internationale Des Droits De L'Homme, Helsinki Watch, the International Minority Rights Network, the Helsinki Commission on Security and Cooperation and the International Federation for Human Rights had a strong combination of high expertise and credibility in human rights issues to build upon in their involvement.

## Missions and Their Findings

In the face of the escalating dynamic of arguments on values that appear as incompatible (human rights versus security), IGOs and NGOs have been aware of the importance of internationally stated facts and shared information. More than 20 fact-finding reports on the citizenship issue in Estonia and Latvia have been prepared since 1991.<sup>2</sup> In general, it has to be noted, that fact-finders have done excellent work. Because of varying mission mandates, the reports have complemented each other. If one takes all the reports together, one receives a detailed and pluralistic picture of the conflict and possible approaches to problem solving.

### 1. Different Answers to the Same Question

How did the missions treat the question of whether the exclusion from citizenship is or is not a human right violation? All fact-finding missions recognized severe problems concerning the protection of those permanent residents in Estonia and Latvia who find themselves excluded from citizenship. A common prognosis was that fear, insecurity and growing tension inside the society in both countries will deeply affect the development of democracy in Estonia and Latvia. However, the missions were not of one mind whether the denial of citizenship could or should actually be named as a violation of human rights. Three positions can be distinguished:

(1) The reports on behalf of the Parliamentary Assembly of the Council of Europe, the CSCE ODIHR mission, the United Nations and the Swedish Helsinki Committee on Human Rights all confirm the Estonian and Latvian position that laws concerning citizenship do not violate positive international law. This position is based on different reasons.

The Council of Europe report states that human rights and citizens' rights are different issues and that citizenship cannot be regarded as a question of human rights but must be dealt with separately:

35. . . . it should first be noted, that neither the European Convention on Human Rights nor any other international human rights convention recognized the right to a certain citizenship as a human right. Consequently, it must in principle be left to each State to determine the conditions for acquiring its citizenship.

36. However, if substantial parts of the population of a country are denied the rights to become citizens, and thereby are also denied for instance the right to vote in parliamentary elections, this could affect the character of the democratic system in that country. As regards the European Convention on Human Rights, the question could be raised whether in such a situation the elections to the legislature would sufficiently ensure the free expression of the opinion of the people, as required by Article 3 of the First Protocol to the Convention.

37. Human rights problems could arise if citizenship was refused to residents on the ground of their membership of a certain minority group and not on the basis of an examination of each individual case . . . .<sup>3</sup>

The CSCE-ODIHR mission states likewise "that no international human rights instruments recognize the right to a nationality as a human right enjoyed by everyone."<sup>4</sup> And the non-governmental Swedish Helsinki Committee said that every individual has a right to nationality, but cannot claim a specific one.<sup>5</sup> According to the UN report on Estonia, the concrete case exposes a loophole in international law:

International law has traditionally left the issue of citizenship within the realm of a State's jurisdiction. Although human rights declarations and conventions contain relevant provisions over citizenship and nationality, there remains a certain gap in international human rights law. Indeed, the specific factual situation of annexation accompanied by the influx of very large numbers of persons into a small State with a different ethnic origin, followed by the reemergence of the original State as an independent entity, do not seem to have been envisaged by drafters of the relevant instruments.<sup>6</sup>

(2) The report on behalf of the European Bank for Reconstruction and Development represents a second position, concluding that the denial of citizenship and its consequences have to be regarded as human rights violations:

Neither international law in general, nor international human rights are entirely clear over citizenship requirements of the kind that have emerged in Estonia and Latvia. While the approach taken by the two countries may not directly violate any specific rule of positive international law, it runs to strongly counter to a number of basic principles of modern human rights that the cumulative effect must be to consider them as violations.<sup>7</sup>

The report on behalf of the Fédération Internationale Des Droits De L'Homme is even more decisive:

It appears to me that these provisions as to citizenship and their consequences may well violate Article 6 (right to recognition as a person before the law) and 15 (right to a nationality) of the 1948 Universal Declaration of Human Rights (UDHR), Article 25 (right to take part in public affairs, to vote, and to have access to public service) of the 1966 International Covenant on Civil and Political Rights (ICCPR), and Articles 1 and 10 (2) of the Convention on Reduction of Non-Citizenship. Furthermore, Latvia would appear to have difficulties regarding Article 3 (free elections) of Protocol 1 to the 1950 European Convention of Human Rights (ECHR).<sup>8</sup>

(3) A third position is taken by experts who keep silent on the question of whether it is a violation of human rights, or whether it is not. This "open" approach characterizes the reports of the non-governmental St. Petersburg minority Rights Group as well as reports prepared by UNDP (UN Development Program), the CSCE High Commissioner on Minority Rights, and the reports of the CSCE permanent missions to Latvia and Estonia. They all restrict themselves to the description of what is going on and to practical, occasionally detailed proposals for the integration of those who are excluded from citizenship.

## 2. Focus on Reforms

The fact-finding missions did not agree whether the denial of citizenship to a huge group of the population can be, must be or should be judged as violations of human rights. However, virtually all experts have noted and accepted that neither Estonia nor Latvia are recognizing initial citizenship as it was promised during the struggle for independence and as it was negotiated with Russia in 1991. Thus, all experts concentrate on the necessity of reforming a situation which is considered to be dysfunctional, dangerous and unjust, even if it is or would be in harmony with the spirit of the international human rights system. Recommendations may be summarized as follows:

The citizenship legislation and related laws on aliens should be revised and made more precise. Requirements for naturalization should be diminished, and possibilities of conforming with the requirements should be increased. For instance, the simplification of language tests, financial support for qualified language lessons, and better information on the process of naturalization are recommended.

Arbitrariness should be excluded. It is proposed, for instance, to replace the registration administration by an independent institution or to create an ombudsman for ethnic problems, who could give support to the rule of law in practice. Such practices are expected to spread among residents the feeling of being fairly treated regarding the procedures of naturalization.

The consequences of the denial of citizenship for the concerned individuals should be mitigated; possibilities should be offered to participate in the public administration, to take positions and jobs, own property and receive social help.

The threat to internal stability from growing anxieties and hostility which could disturb interethnic relations and democratization should be prevented by means such as searching for compromise solutions and examination of allegations of discrimination by a consultative Commission on National Minorities.

The results from this brief investigation of fact-finding reports can be summarized as follows:

- (i) The accusation that the Latvian and Estonian denial of citizenship to a huge part of the Russian-speaking community must be regarded as a violation of human rights has not been established as a fact in the sense of an internationally recognized statement. The same holds true with respect to justifications that the denial of citizenship has been legitimately established in order to assure the security of the Latvian and Estonian state. Thus, judgements of the Latvian and Estonian decisions on citizenship remain disputed even among the group of experts.
- (ii) However, missions did not fail to establish some facts. Despite their differences, experts have agreed that the domestic situation in Estonia and Latvia should in no case remain as the experts have found it. They have considered it to be dysfunctional, dangerous and not just, even if apparently in harmony with the spirit of the international human rights system.
- (iii) Missions mostly abstained from referring to the international dimension of the citizenship issue, in particular to the bilateral tension between Russia and the Baltic States. Russian accusations were counteracted by resisting to accept the issue as a direct matter of Russian concerns. Instead it was dealt with as a matter of domestic policy within countries in transition, which need assistance by the international community.
- (iv) Thus, fact-finding has lead to moderate but frank statements on what the international organizations, representing the international community, consider to be appropriate measures regarding the internal tensions in Estonia and Latvia as politically divided societies.

### **Effects and Failures**

Neither in Latvia nor in Estonia was a state of conflict resolution reached. It cannot be excluded that internal tensions might grow and contribute to severe confrontation with Russia. The risk that both societies fall into ethno-political confrontation which could deeply affect international relations in Europe continues to exist. Nevertheless, remarkable progress has been achieved among the parties. Despite methodological difficulties to evaluate the contribution that was made through fact-finding missions and their sponsoring organizations, one can state the following:

- (i) The missions' activities have helped Latvia and Estonia against Russian accusations. This backing was given without minimizing the fact that the relationship

between the political majority in Estonia and Latvia and non-citizens remains as crucial as it is. No other political force could have likewise expressed the expectation that non-citizens will have to become integrated through a process of political and social reforms.

(ii) Fact-finding missions that served as "eyes and ears" to the sending organizations have provided the international community as well as conflicting states continuously with detailed and shared information, external facilitators, formal and informal assistance.

(iii) Missions also served national NGOs as sources of information, and they have stood in for capacities and resources that are not available inside the countries for the time being.

(iv) Advices had been partly adopted and thus gained legitimization for further developments.

As a consequence, a transformation of the conflicts has been achieved regarding peace-keeping, peace-building and peace-making.<sup>9</sup> Conflict behavior has remained without violence. Attitudes allowing to prepare for dialogue have grown and emotional reactions have been kept in perspective. The idea of "soft" expulsion of non-citizens to Russia has disappeared from the political discourse. All parties, including Russia and the Western European states, have been motivated to declare their willingness to avoid escalation and to contribute to problem-solving. International preparedness for dealing with the conflict also has improved. A variety of internal and external actors have been qualified to act in the field. Trained experts with special experience in the conflict itself will be available on-site immediately, if they are wanted. Conflicting aims have been brought closer to compromise. Concerns and recommendations have led twice to revisions of provocative laws that had already passed the parliaments. Without international assistance Latvia would not have reached a citizenship law that allows naturalization nor would Estonia have reached relatively liberal residents' permissions in the law on aliens.

However, all these positive effects are not reflected in the missions' on-site images. Even the missions themselves tend to be skeptical regarding the outcome of their work. Klaus Törnudd, then head of the CSCE permanent mission to Estonia, noted for instance, in August 1993 that "Sadly it has to be concluded that even if the mission has not directly failed in its work, it has also not been successful."<sup>10</sup>

The main problems are related to the dilemma which arises from the necessity of addressing a civil society which does not yet exists in either country, but is in the making. Thus, dialogue between the communities in Estonia has not flourished as it was expected that it would. The Estonian and Latvian Parliaments have paid less attention to international advisors than expected. Parliamentarians have kept obdurate and changed their positions, if at all, only when international pressure on the State became explicit and strong.

Activities originally intended to contribute to a common understanding of the situation and to create confidence among the parties to the conflict somehow turned around and achieved the opposite. Fact-finding missions and their organizations became affected by the system of mistrust ruling the conflict. The Estonian and Latvian governments have made selective use of the missions' findings. On the one hand, they have complained about the missions and declared them and their findings as useless. On the other hand, Latvians and Estonians have seized quite successfully upon the reports and got control of what is being discussed in public. A few desirable phrases were selected and stressed. The false impression was created that all reports have confirmed that any sign of human rights violations are absent in both countries, and that international concerns are unreasonable.

Who could have corrected the wrong picture given? Most of the reports have not been made available to the people concerned. The media in Estonia and Latvia have adopted the Government's views on the fact-finding results without further examination. Unfortunately, the same is true with respect to Western governments that cannot plead the excuse of lack of information. Almost no one has cared about what actually was stated and what is controversial among members of the fact-finding community.

Various nationalists have accused the whole fact-finding procedures concerning human rights violations in the Baltics of being "Russian oriented" and not sufficiently responsive to Estonian and Latvian expectations, while others—and especially non-citizens within the Russian speaking community—perceive fact-finding missions as "servants" of the Latvian and Estonian government.<sup>11</sup> As a direct result of the conflicting use and interpretation of the findings, and the inability of the fact-finding community to react against them by delivering their exact findings and further information, that community has lost credit.

### **Societal World View Versus State-Centered World View**

Fact-finding missions and the political rivals on the spot follow different views of the world. Consequently, they perceive the conflict over citizenship differently. The concerned governments are used to follow a state-centered perspective, i.e., their perception of the conflict is limited to the world of states. However, the fact-finding missions follow a perception which reflects the emergence of the "societal world."<sup>12</sup> This world view is characterized by the fact that all issues pertaining to the state-centered world view are regarded as relevant, however, their importance and their meaning are interpreted differently. Furthermore, other societal factors contributing to a higher complexity of a modern world view are present in the frame of reference.

When comparing the Estonian and Latvian perception with that of the fact-finding missions being reviewed here, one finds the difference as described in Table 1.

- (i) Both perceptions conform with each other in seeing the past as relevant to the conflict's origins. However, according to the state-centered perspective the history of the conflict is limited to a few events during a short time of about 50 years: the

Table 1

	Elements of a state-centered view	Further elements to be included in a societal world view
Origins of the conflict	<p>The past (1940-1990) as a left over in the present</p> <p>Russian occupation and annexation (1940); policy of Russian settlement in the territories</p>	<p>The present with separate and conflicting readings of the past; history of Latvian/ Estonian society and independence; suppression of democracy by national dictatorship; national-socialism and collaboration; armed conflicts;</p> <p>East-West bipolarity; the containment of violence; human rights systems; struggle for independence</p>
Points of contention	Security of the territory	Human rights, participation, development
Dangers of escalation	Interference, nexus of other security issues	Rejections of human rights, denial of citizenship, lack of participation
Actors in the conflict	<p>The Latvian, Estonian State (legitimate actor)</p> <p>The Russian superpower as rival of Estonia/Latvia</p> <p>Western states, international organizations with (soft) jurisdiction over states</p>	<p>All inhabitants, representatives and organizations of Latvian and Estonian society</p> <p>The Russian state as representative of Russian society</p> <p>International organizations in advisory and mediating function</p> <p>Transnational level</p>
Resolution	Paternalistic	Participatory

Russian occupation and annexation and the policy of Russian settlement in the territories for industrial and military reasons. From the societal world perspective the conflict is mainly regarded as one that has arisen in the recent past. However, it cannot be explained without referring to the more remote past. Moreover, this past had started earlier than 1940 and it is open to conflicting readings. Thus, very different aspects are taken as relevant to the conflict. A few experts go back to the twelfth century. Others concentrate on the twentieth century. Among the most important elements are the following: the relatively late constitution of Baltic societies and independence; suppression of democracy by national dictatorship during the 1930s; National Socialism and collaboration, and the persecution of Latvian and Estonian Jews during WW II; armed conflicts against the Soviet occupation up to the early 1950s; the impact of bipolarity during the East-West conflict; the emergence of the international human rights system since 1945; and the independence movement which in fact was supported by many members of the communist party in Latvia and Estonia, including those of Russian origin.

(ii) According to the state-centered world view the point of contention of the conflict is limited to "security of Latvian and Estonian territories." From a societal world perspective this point is complemented by three other related aspects: human rights, political and economic participation and development. The societal world view presumes that the goal "security" of Latvian and Estonian territories and social life can be achieved only if the means take into account the three other aspects. Otherwise, permanent residents cannot be expected to feel responsible and to act out of loyalty towards Latvia and Estonia.

(iii) According to the state-centered view, dangers of escalation are perceived as coming from abroad, i.e., from the big neighbor Russia interfering in Baltic affairs and linking them to Russian security interests, which appear to be directed against the security interests of Latvia and Estonia. The societal world view additionally points to "home-made" dangers of escalation. Rejections of human rights, the denial of citizenship and lack of participation in the democratic and economic development are perceived as conflict-generating in themselves.

(iv) The most obvious difference between the two world views is the increasing number of actors and the diversification of functions apparent when the conflict is seen from a societal perspective. According to the state-centered view, the Estonian and Latvian States are the sole legitimate actors. From the societal world view all inhabitants, representatives and organizations in Latvian and Estonian society are perceived as actors who possibly may contribute to the escalation or the scaling down of the conflict. Their status as actors is not dependent on whether they are citizens or not. The state-centered view includes Russia as an illegitimately interfering actor, while from the societal world perspective Russia additionally appears as the

representative of Russian society. Thus, the Russian government has to balance between different social groups, including those who are uncongenial to the Latvian and Estonian view, namely the Russian military and those permanent residents in Latvia and Estonia who have opted for Russian citizenship or probably are going to do so. However, both world views take international organizations to be important actors, although within the societal world perspective their function goes beyond soft jurisdiction to a wide set of advisory and mediation functions. Transnational actors like human rights NGOs are found only within a societal world perspective, as a matter of fact.

(v) The two world views differ in their ideas on conflict resolution. Within a state-centered world perception problem-solving is restricted to classical diplomatic means. However, inherent to these means is their paternalistic approach to the people and particularly to those excluded from citizenship. In the societal world, with its broadened field of actors, conflict resolution embraces a huge field of participatory units. They emerge as essential to conflict prevention in a situation where a conflict tends to become organized along ethno-political lines, as has happened in Latvia and Estonia since independence.

If one compares the Latvian and Estonian view with that of the fact-finding missions, it becomes obvious that serious tensions must arise when they are confronted with each other on the floor of international politics without being mediated. Thus, one of the main problems of the fact-finding missions in Estonia and Latvia has turned out to be that, having used a societal world view, the missions have failed to make themselves understood by those actors who are used to think in terms of the limited categories of the state-centered world view. These actors feel confronted by a set of recommendations which only make sense in a world view different from their own. Thus, every critique of the citizenship laws given by the fact-finding missions, however objective, must appear as nothing but criticism. From the state-centered world perception the exclusion of a large part of the residents from citizenship is assigned to domestic affairs and appears worthwhile, reasonable and just. Consequently, Estonia and Latvia cannot but read the human rights discussion as directed against their security despite the fact that this was never intended by fact-finding missions and their sending organizations. However, it has to be taken into account that this *really is* the Estonian and Latvian perception, and that there *really is* a lot of emotional and intellectual support for this reading even if the Estonian and Latvian views seem to be quite obsolete to the community of experts.

Changes in the perception of the conflict turn out to be a key to further tasks of problem-solving in the region. The absence of any reference to this issue in all fact-finding reports is a grave failure that has contributed to their lack of impact on civil society, to the loss of credit and to misunderstanding.

## Conclusions

For the purpose of optimizing fact-finding as a means of preventive diplomacy, the following conclusions were drawn from the experiences in Estonia and Latvia.

The successes of the fact-finding missions in Estonia and Latvia indicate that it is worthwhile to conduct on-going monitoring of the results actually achieved. The effects should be reviewed continuously. The Political Reports given by CSCE long-term missions are important steps in the direction proposed. Similar efforts should be supported with respect to other IGOs and NGOs that undertake fact-finding.

Failures, like the parliamentary resistance to international "criticism" of the citizenship legislation and the issue of full local report of findings indicates that the manner in which fact-finding missions are conducted should be rethought:

- (i) The necessity of encouraging and empowering the civil society, i.e., citizens and their parliamentary representatives, must receive more attention in future.<sup>13</sup> Related initiatives taken by IGOs or NGOs should focus on the idea that progress in the protection of human rights depends not on pressure or soft diplomatic statements but on social and political insight. Thus, recommendations should focus on how this can be stimulated.
- (ii) It seems worthwhile to extend the cooperation and evaluation of the fact-finding activities between all organizations that are involved in a specific conflict area and make the evaluation more transparent to civil society. Combined efforts could be undertaken to make fact-finding reports more easily accessible to the national and transnational public debate. This cannot be left to the media. There is a need for skilled documentation and serious presentation to the public for the purpose of initiating myth-free public debates. Findings should be broadly published by the commissioning organs themselves within a fixed time after the reports have been delivered to the organs and governments concerned. Short reports that are readily usable by the media should be included.
- (iii) Fact-finding activities need to be protected against accusations which result from the inability or unwillingness of states and societies concerned to settle the conflict. The best protection would be to give the floor to the conflicting parties and let them comment officially on their positive and negative evaluations of the missions' findings. The aim should be to create a public debate in a number of fora involving as many people as possible in debating the pros and cons of recommendations—whether these people are citizens or not, whether they come from within the society or from abroad.

(iv) In addition, there are some issues with which fact-finding missions should deal more openly than they did in the cases reviewed here. All missions decided to adopt a gradualist approach designed to reform a situation generally argued to be unfortunate at best. However, they failed to explicitly explain the political reasons for this approach, perhaps leading concerned citizens to see it as a betrayal of the human rights idea. Further, it would seem to be essential to include on the agenda all issues which are controversial even among the experts, instead of leaving them covert or even eliminating them. For instance, there are different understandings of the contents of universal human rights, of what they can be extended to, how they are created, how the making of "the international human rights system" works and the state of affairs concerning the limits to the sovereignty of states with respect to citizenship. None of the fact-finding missions referred to such unsolved questions.

(v) Overcoming the gap between different perceptions resulting from different world views is a key issue for achieving a better balance of human rights and security concerns. The impact of the fact-finding community is dependent on whether their specific approach is understood by those who, for different reasons, hitherto have followed their own world view. They must become convinced that a new perception could be more effective in achieving their present aims than the traditional one has been. The gap between world views does not exist solely between experts and specific governments such as the one of Estonia or Latvia. The gap exists between the views of international or transnational experts and the views of national governments in general, including the majority of Western politicians. Thus, Latvia and Estonia find themselves "in good company" when rejecting the findings of the missions. And experts find themselves rather powerless in obtaining support for implementing a participatory method of conflict resolution wherever they might urge for its adoption. Governments still save resources that are requested for appropriate implementation and evaluation of conflict resolution capacities and keep them undeveloped. Thus, breaking the dominance of state centrism also within Western politics will contribute to the possibility of achieving the implementation of sophisticated recommendations of experts and to giving preventive diplomacy a better chance.

### Notes

1. A similar explanation is given by A. Walter Dorn, "Keeping Watch for Peace: Fact Finding by the United Nations Secretary General." In Eric Fawcett and Hanna Newcombe, eds., "United Nations Reform, Looking Ahead After Fifty Years," Toronto: Science For Peace, University College, University of Toronto, 1995, 138-154.

2. They are documented in H.-M. Birkenbach, "Preventive Diplomacy through Fact-Finding: How International Organizations Review the Conflict over Citizenship in Estonia and Latvia." Münster, forthcoming.

3. Council of Europe, Parliamentary Assembly, "Report on Human Rights in the Republic of Estonia." Doc. AS/Ad hoc-Bur-EE (43)2, 17 December 1991, p. 14.

4. CSCE-ODIHR Mission, "Report on the Study of Estonian Legislation, Invited by the Republic of Estonia on 28 September 1992," p. 18.

5. The Swedish Helsinki Committee for Human Rights, 1993. "Human Rights in Estonia," p. 10.

6. United Nations, 1993. "Allegations of Discrimination Practices Against Minorities in Estonia." Report on a Fact-Finding Mission to Estonia from 27 January to 11 February and to the Russian Federation on 12 February 1993 by Ibrahima Fall (31.03.93), p. 2.

7. European Bank for Reconstruction and Development, 1992. "Human Rights Aspects of the Citizenship Issues in Estonia and Latvia, based on available material and visit 3-7 February 1992." Progress report 11 March 1992 by Asbjorn Eide, p. 17.

8. Fédération Internationale Des Droits De L'Homme, 1993. "Report of a Mission to the Republic of Latvia by Bill Bowring, June and July 1993," p. 13; see also p. 16.

9. See Johan Galtung, 1996. *Peace by Peaceful Means. Peace and Conflict, Development and Civilization*. Oslo: Peace Research Institute.

10. CSCE Mission to Estonia, Political Report #17/1993, p. 3.

11. CSCE Mission to Estonia, Political Report #17/1993, p. 3.

12. See Ernst-Otto Czempiel, *Weltpolitik im Umbruch. Das internationale System nach dem Ende des Ost-West-Konflikts*. 2 Aufl., München: C.H. Beck, 1993; also James Rosenau, 1990. *Turbulence in World Politics: Resolving Ethnic and Regional Conflict*. Princeton.

13. Participation of women, as it was proposed by the UN Expert Group Meeting "Gender and the Agenda for Peace" would probably contribute tremendously to strengthen this approach. See "Women's Perspective on the Agenda for Peace," PFK-texte Nr. 32, Kiel: Projektverbund Friedenswissenschaften Kiel, April 1995.